

THE
UNREPEALED AND UNEXPIRED
ACTS
OF THE
LEGISLATIVE COUNCIL OF INDIA

WITH
ABSTRACTS, MARGINAL AND FOOT NOTES,
A CATALOGUE OF ALL ACTS
REPEALED, AMENDED, EXPIRED, EXTENDED OR EXPLAINED,

A SINGLE SYSTEMATIC AND FULL INDEX,

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IN THREE VOLUMES,

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CALCUTTA:
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ACTS
OF THE
GOVERNOR GENERAL OF INDIA IN COUNCIL.

ACT No I OF 1855.

GENERAL.

EXPIRED.

ACT No II OF 1855.

1. *Repeals Act X., 1855.*
- 2-6. *Courts and persons authorised to take evidence to take Judicial notice of all Indian Regulations and Acts, of all public Acts of Parliament, of their own officers, and of the names, titles, &c., of persons filling certain offices, and of the divisions of time and place and of war and peace, and national flags.*
7. *Any Government Gazette to be proved by bare production.*
8. *Proclamations to be proved by production of Gazette and to be primâ facie proof of any public fact notified in them.*
9. *Recital in Acts to be primâ facie proof of facts recited.*
10. *Gazettes or newspapers to be primâ facie evidence of the authority under which the advertisement is published.*
11. *Books, maps and charts may be referred to as evidence in matters of public history.*
12. *Foreign Codes and Laws may be proved by books purporting to be published by authority of State.*
13. *Government May to be primâ facie evidence.*
14. *No persons to be incompetent to testify, but children under 7 years of age and insane persons; and they only in certain circumstances.*
- 15-17. *Children and persons of defective religious belief, may give evidence in writing or by simple affirmation, and shall be punished as for perjury if they give false evidence.*
18. *Interest in suit not to render a person incompetent to give evidence.*
19. *Any party to a civil proceeding may be examined as a witness and compelled to produce documents.*

20. *Husband or wife may give evidence for or against each other with certain limitations.*

21. *Documents relating to State affairs not to be produced.*

22. *Party to suit not bound to produce irrelevant documents or correspondence with legal advisers, unless he has offered himself as a witness.*

23. *Witness summoned to produce a document must bring it into Court, and if there be an objection to its production, the validity of it shall be determined by the Court.*

24. *Professional adviser prohibited from disclosing any confidential communications made by his client, unless the client shall by his acts or directly have waived his privilege.*

25. *Any person present in Court may be compelled to give evidence though not summoned.*

26. *Persons summoned to produce a document need not attend personally.*

27. *Rules of evidence of the Ecclesiastical and Admiralty sides of the Supreme Court to be the same as on the Plea side.*

28. *Except in cases of treason and perjury the evidence of one credible witness shall be sufficient proof.*

29. *Dying declarations to be admissible though the deceased at the time hoped to recover.*

30. *Party allowed to discredit his own witness.*

31. *Former statement by a witness may be admitted to corroborate his testimony.*

32. *Witness bound to answer criminating questions, but such answer shall not be used as evidence against him in any criminal proceeding, except on a charge of perjury.*

33. *Witness may be examined as to conviction for felony.*

34. *Witness may be cross-examined as to previous written statements. Proviso.*

35. *Copies by copying machines to be deemed correct.*

36. *Secondary evidence may be admitted by order of Court after notice when the original document is out of reach of process.*

37. *When a document is valid without attestation it may be proved as if unattested.*

38. *Admission to be prima facie evidence of an attested document as against the person admitting.*

39—40. *Entry made against interest or in course of business to be admissible in life time of person making it, under certain circumstances and for purpose of identification.*

41. *Receipt to be evidence in certain cases against person other than the giver.*

42. *Receipt of agent or servant admissible on proof of authority*

43. *Books kept in course of business, &c., admissible, but only as corroborative evidence.*

44. *Certain other documents admissible as corroborative evidence.*

45. *Witness may be allowed to refresh his memory by any writing made at the time, or by leave of Court by a copy.*

46. *Declarations of illegitimate persons.*

48. *Comparison of hand-writing.*

49. *Authenticated power of attorney may be proved by simple production.*

50. *Dispatch of letter may be proved by production of letter book.*

51. *Receipt of letter may be proved prima facie by production of letter receipt book.*

52. *Act XV, 1862, Sec. 6, repealed.*

53—54. *Act VI, 1854, Secs. 16, 17 extended to all civil proceedings.*

55. *Act VI, 1854, Sec. 33, extended to accounts on all sides of the Court.*

56. *Proof of official documents.*

57. *Improper admission or rejection of evidence shall not of itself be ground for a new trial.*

58. *Evidence admissible before not to be rendered inadmissible by this Act.*

An Act for the further improvement of the Law of Evidence.

WHEREAS it is expedient further to improve the Law of Evidence, It is enacted as follows :—

I. Act No. X of 1835 is hereby repealed.

Act repealed.

II. Within the territories in the possession and under the Government of the East India Company, all Courts of Justice, and all persons having by law or consent of parties authority to take evidence, shall take judicial notice of all Regulations and Ordinances made before or on the 22nd day of April 1834 by the Governor General in Council of the Presidency of Fort William in Bengal, by the Governor in Council of the Presidency of Fort St. George, or by the Governor in Council of the Presidency of Bombay, and having the force of law in any part of the said territories, and of all Laws and Regulations heretofore made by the Governor General of India in Council, and of this Act, and of all Acts and Regulations heretofore made, or hereafter to be made by

**Judicial notice
to be taken of all
Acts and Regu-
lations.**

the Governor General of India in Council, constituted for the purpose of making Laws and Regulations whether the same be of a public or of a private nature.

Judicial notice
to be taken of
public
Parliament

What shall be
prima facie proof
of a private Act.

III. All Courts and persons aforesaid shall take judicial notice of all public Acts of Parliament and of all local and personal Acts declared by Parliament to be public and to be judicially noticed, and shall admit as *prima facie* evidence of any private Act of Parliament, any copy thereof purporting to be printed by the King's Printer.

Judicial notice
to be taken by
Court of its own
Officers, &c.

IV. Every Court shall take judicial notice of its own members and officers respectively, and of their deputies and subordinate officers or assistants, and also of all officers, acting in execution of its process, and of all Advocates, Attornies, Proctors, Vakils, Fiealders, and other persons authorized by law to act before it.

Judicial notice
to be taken of
the names, titles
&c., of certain
persons.

V. All Courts and persons aforesaid shall take judicial notice of the names, titles, and authorities of the persons filling for the time being any one of the following offices in any part of the said territories:— Governor General, Governor, Lieutenant Governor or Deputy Governor, Secretary or Under-Secretary to Government, Commander-in-Chief, Bishop, Member of Council, Legislative Councillor, Judge of any of Her Majesty's Courts or of any Sudder Court, or of any Court of Judicature hereafter to be constituted in the said territories to or in which the powers of any of Her Majesty's Supreme Courts may be transferred or vested.

Judicial notice
to be taken of
divisions of
time, place, &c.

VI. All such Courts and persons aforesaid shall take Judicial notice of all divisions of time, of the geographical divisions of the world, of the territories under the dominion of the British Crown, of the commencement, continuation and termination of hostilities between the British Crown and any other State, and also of the existence, title and national flag of every Sovereign or State recognized by the British Crown. In all the above cases, such Court or persons may resort for its aid to appropriate books or documents of reference.

VII. Any Government *Gazette* of any Country, Colony, or Dependency under the dominion of the British Crown, may be proved by the bare production thereof before any of the Courts or persons aforesaid.

Proof of Government *Gazette*.

VIII. All Proclamations, Acts of State, whether Legislative or Executive, nominations, appointments, and other Official communications of the Government appearing in any such *Gazette*, may be proved by the production of such *Gazette*, and shall be *prima facie* proof of any fact of a public nature which they were intended to notify.

Proof of Proclamations, Acts of State, &c.

Proclamations, &c. when to be *prima facie* proof of fact.

IX. Any recital contained in any Act of the Governor General of India in Council, constituted for the purpose of making Laws and Regulations, hereafter to be passed, of any fact of a public nature, shall be deemed, before all such Courts and persons, to be *prima facie* evidence of the truth of the fact recited.

Recital in Act of a fact of a public nature to be *prima facie* proof.

X. The *Gazette* or Newspaper containing any advertisement purporting to be published by virtue of any public Statute, Act, Regulation, or Ordinance, or of any Rule or Order of a Court of Justice or of any Board or Officer of Revenue, may be received by any such Courts or persons as aforesaid as *prima facie* evidence that such advertisement was published duly under the authority from which it purports to proceed.

Gazette, &c., containing advertisement purporting to be published by authority to be *prima facie* evidence of such authority.

XI. All Courts and persons aforesaid may, on matters of public History, Literature, Science, or Art, refer, for the purposes of evidence, to such published Books, Maps, or Charts as such Courts or persons shall consider to be of authority on the subject to which they relate.

Books, Maps, &c., to be evidence in matters of public history, &c.

XII. Books printed or published under the authority of the Government of a Foreign Country and purporting to contain the Statutes, Code, or other written law of such country, and also printed and published Books of Reports of decisions of the Courts of such country, and books proved to be commonly admitted in such Courts as evidence of the law of such country, shall be admissible before any such

What Books, &c., shall be evidence of Foreign Law.

Courts or persons as aforesaid as evidence of the law of such Foreign Country.

Government
or public Maps,
when to be pri-
ma facie proof.

XIII. All Maps made under the authority of Government or of any public municipal body, and not made for the purpose of any litigated questions, shall *prima facie* be deemed to be correct, and shall be admitted in evidence without further proof.

Persons in-
competent to
testify.

XIV. The following persons only shall be incompetent to testify :—

Children.

1. Children under seven years of age who appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly.

Insane per-
sons.

2. Persons of unsound mind, who, at the time of their examination, appear incapable of receiving just impressions of the facts respecting which they are examined, or of relating them truly; and no person who is known to be of unsound mind shall be liable to be summoned as a witness, without the consent previously obtained of the Court or person before whom his attendance is required.

Not to be sum-
moned without
leave of Court.

Children and
persons of de-
fective religious
belief to testify
on simple affir-
mation.

XV. Any person who, by reason of immature age or want of religious belief, or who, by reason of defect of religious belief, ought not, in the opinion of such Court or persons, to be admitted to give evidence on oath or solemn affirmation, shall be admitted to give evidence on a simple affirmation, declaring that he will speak the truth, the whole truth, and nothing but the truth.

Provisions as
to witness to
apply to affida-
vits, &c.

XVI. The provisions in the last preceding Section as to witnesses shall apply to testimony given by affidavit or otherwise in writing as well as to testimony orally delivered.

Punishment
for giving false
evidence.

XVII. Any such witness wilfully giving false evidence shall be subject to be proceeded against in like manner, and to suffer, if convicted, the same punishment as if he had been sworn and had committed wilful and corrupt perjury. The indictment or charge shall be varied so as to meet the case.

XVIII. No person shall, by reason of any interest in the result of any suit or of any interest connected therewith or by reason of relationship to any of the parties thereto, be incompetent to give evidence in such suit.

No incompetency from interest in suit.

XIX. Any party to a civil suit or other proceeding of a civil nature shall be competent and may be compelled to give evidence as a witness therein either on his own behalf or on behalf of any other party to the suit or proceeding, and also to produce any document in his possession or power, in the same manner as if he were not a party to the suit or proceeding. Provided that no Court or person as aforesaid, other than Her Majesty's Supreme Court of Judicature, shall compel the attendance of any party to such suit or proceeding, for the purpose of giving evidence therein, except under and subject to the rules prescribed in that behalf in Act XIX of 1853.

Party to suit may be examined as a witness.

Proviso.

XX. A husband or wife shall in every civil proceeding be competent to give evidence for or against each other. Provided that any communication made by husband or wife to the other during their marriage shall be deemed a privileged communication and shall not be disclosed without the consent of the person making the same, unless such communication shall relate to a matter in dispute in a suit pending between such husband and wife.

Husband or wife giving evidence.

Proviso.

XXI. A witness, whether a party or not, shall not be bound to produce any document relating to affairs of State the production of which would be contrary to good policy, nor any document held by him for any other person who would not be bound to produce it if in his own possession.

Witness, &c., not bound to produce document relating to State affairs.

XXII. A witness being a party to the suit shall not be bound to produce any document in his possession or power which is not relevant or material to the case of the party requiring its production, or any confidential writing or correspondence which may have passed between him and any legal professional adviser. If any party, however, offer himself as a witness, he shall be bound to produce any such writing or

Party to suit, not bound to produce certain documents.

Unless he offers himself as a witness.

correspondence in his custody, possession, or power, if relevant or material to the case of the party requiring its production.

Witness summoned, to produce a document must bring it into Court.

XXIII. Every witness summoned to produce a document shall, if the same be in his custody, possession, or power, be bound to bring it, or cause it to be brought into Court, although there be valid objection to the right of the party calling for it to compel its production, or to the reading or putting it in as evidence, or to the disclosure of the contents thereof. The validity of any such objection made by the person producing the document shall be determined by the Court; and for the better determination thereof, it shall be lawful for the Court to receive any admissible evidence which the person producing the document may give respecting it, and it shall also be lawful for the Court, except in the case of any document relating to affairs of State, to inspect the document, and, if necessary, to call to its assistance any person whom it may appoint to interpret the same. Such person, however, shall be previously sworn truly to interpret the same to the Court alone, and not to disclose the contents thereof except to the Court, unless the Court shall order the document to be given in evidence.

Mode of determining objection to produce.

Document relating to affairs of State.

Professional communication.

XXIV. A Barrister, Attorney or Vakeel shall not, without the consent of his client, disclose any communication made by the client to him in the course of his professional employment, nor any advice given by him professionally to his client, nor the contents of any document of his client, the knowledge of which he shall have acquired in the course of his professional employment. The privilege, however, is that of the client, and if any party to a suit shall give evidence therein, at his own instance, he shall be deemed thereby to have waived his privilege, and to have consented to the disclosure by such Barrister, Attorney, or Vakeel, of any matter as aforesaid, which may be relevant, and which the Barrister, Attorney, or Vakeel would have been bound to disclose, but for the privilege of his client; and the Barrister, Attorney, or Vakeel shall be bound upon examination to disclose any such matter.

XXV. *Repealed by Act X 1861.*

XXVI. *Repealed as above.*

XXVII. The rules of evidence in Her Majesty's Supreme Courts as to matters of Ecclesiastical or Admiralty Civil jurisdiction, shall be the same as they are on the Plea side of the said Courts.

Rules of
evidence in
Preme Courts.

XXVIII. Except in cases of treason, the direct evidence of one witness who is entitled to full credit, shall be sufficient for proof of any fact in any such Court or before any such person. But this provision shall not affect any rule or practice of any Court that requires corroborative evidence in support of the testimony of an accomplice or of a single witness in the case of perjury.

Evidence of
one witness suf-
ficient proof.

Proviso.

XXIX. Where dying declarations are evidence, they shall be received if it be proved that the deceased was at the time of making the declaration, and then thought himself to be in danger of approaching death, though he entertained at the time of making it hope of recovery.

Dying declara-
tions when ad-
missible.

XXX. The party at whose instance a witness is examined may, with the permission of such Court or person, cross-examine such witness to test his veracity, in the same manner as if he had not been called at his instance, and may be allowed to show that the witness has varied from a previous statement made by him.

Party allowed
to cross-exa-
mine and du-
credit his
witness.

XXXI. In order to corroborate the testimony of a witness, any former statement made by such witness, relating to the same fact, at or about the time when the fact took place, or before any authority, legally competent to investigate the fact, shall be admissible, and for that purpose a copy of any deposition or statement taken before any Court, Judge, Justice of the Peace, Magistrate, or person lawfully exercising the powers of a Magistrate, or before a Commissioner or Superintendent for the suppression of Thuggee or Dacoity in the discharge of his duty, shall, if certified by such Court, Judge, or other officer above-mentioned, under his hand or the official seal of the Court, or under the hand or official seal of such Judge, to be a true copy of such deposition or statement, with-

Former state-
ment admis-
sible to corrobo-
rate a witness.

out further proof, be received as *prima facie* evidence that such deposition or statement was made, and that it was made at the time and place, and under the circumstances, if any, which shall be stated in the certificate or on the face of the deposition or statement.

Witness bound to answer criminating questions.

XXXII. A witness shall not be excused from answering any question relevant to the matter in issue in any suit or in any Civil or Criminal proceeding, upon the ground that the answer to such question will criminate, or may tend directly or indirectly to criminate such witness, or that it will expose, or tend directly or indirectly to expose such witness to a penalty or forfeiture of any kind. Provided that no such answer, which a witness shall be compelled to give, shall, except for the purpose of punishing such person for wilfully giving false evidence upon such examination, subject him to any arrest or prosecution, or be used as evidence against such witness in any criminal proceeding.

Proviso.

Witness may be examined as to conviction for felony.

XXXIII. A witness in any cause may be questioned as to whether he has been convicted of any felony or misdemeanor, and upon being so questioned, if he either denies the fact or refuses to answer, it shall be lawful for the opposite party to prove such conviction.

Cross-examination as to previous written statements.

XXXIV. A witness may be cross-examined as to previous statements made by him in writing, or reduced into writing, relative to the subject matter of the cause, without such writing being shown to him; but if it is intended to contradict such witness by the writing, his attention must, before such contradictory proof can be given, be called to those parts of the writing which are to be used for the purpose of so contradicting him. Provided always, that it shall be competent for the Judge, at any time during the trial, to require the production of the writing for his inspection, and he may thereupon make such use of it for the purpose of the trial as he shall think fit.

Proviso.

Copy of a document made by a copying machine to be deemed correct.

XXXV. An impression of a document made by a copying machine shall be taken without further proof to be a correct copy.

XXXVI. When an original document is out of the reach of the process of the Court, it shall be lawful for the Court, on application to it in any Civil suit or proceeding, and on notice to the opposite party at a reasonable time before the hearing, to make an order for the reception of secondary evidence of its execution and contents.

Admission of secondary evidence where original document is out of the reach of process.

XXXVII. An attested document may be proved as if unattested, unless it be a document to the validity of which attestation is requisite.

When attested document may be proved as if unattested.

XXXVIII. The admission of a party to an attested instrument of its execution by himself shall be as against him sufficient *prima facie* proof of such execution of it, though it be an instrument which is required by law to be attested.

Admission, *prima facie* proof of an attested document.

XXXIX. Any entry or statement, which would be admissible in evidence after the death of the person who made it, on the ground of its having been made against the interest of the person making it, or on the ground of its having been made in the ordinary course of business, shall be admissible, though the person who made it be not dead, if he is incapable of giving evidence by reason of his subsequent loss of understanding, or is at the time of the trial or hearing *bonâ fide* and permanently beyond the reach of the process of the Court, or cannot after diligent search be found.

Entry made against interest or in course of business, when admissible in life-time of person making it.

XL. Any entry in any books proved to have been regularly kept in the course of business or in any public office, so far as such entry merely refers to and tends to identify by name, description, number, or otherwise any Bank Notes or Securities for the payment of money, or other property, and the payer-in or receiver of them, shall, in any case where such identification is necessary to be proved, be admissible in evidence for that limited purpose if it shall appear to have been made at or about the time of the transaction to which it relates, though the person who made it, or he on whose information it was made, is alive and capable of being produced as a witness.

Entry in course of business when admissible for purpose of identification.

Receipt when
evidence against
person other
than the giver.

XLII. Any receipt in writing acknowledging the receipt of any money, valuable securities, or goods, shall, on proof of the execution thereof, be admissible in evidence before such Court or person aforesaid, not only against the party giving it, but also against any person in whose favour such receipt would operate as a discharge, or to whom it would render the person giving it liable for the money, security or goods acknowledged to have been received.

Receipt of
agent.

XLII. Whenever a receipt would be admissible under the preceding Section if given by a principal, a receipt given by an agent or servant of such principal shall in like manner be evidence upon proof of the authority to give such receipt.

Books kept in
course of busi-
ness or in a pub-
lic office admissi-
ble as corroborative
evidence.

XLIII. Books proved to have been regularly kept in the course of business or in any public office, shall be admissible as corroborative, but not as independent proof of the facts stated therein

Documents ad-
missible as cor-
roborative evi-
dence.

XLIV. The following documents may be admitted as corroborative evidence:—Certificates of shares, and of registration thereof, bills of lading, invoices, account sales, receipts usually given on the payment, deposit, or delivery of money, goods, securities, or other things, provided they be proved to have been given in the ordinary course of business.

Refreshing me-
mory of witness.

XLV. A witness shall be allowed before any such Court or person aforesaid to refresh his memory by any writing made by himself or by any other person at the time when the fact occurred, or immediately afterwards, or at any other time when the fact was fresh in his memory, and he knew that the same was correctly stated in the writing. In such case the writing shall be produced and may be seen by the adverse party, who may, if he choose, cross-examine the witness upon it.

Court may per-
mit a copy of
document to be
used to refresh
memory.

XLVI. Whenever a witness may refresh his memory by reference to any document, he may, with the permission of the Court, refer to a copy of such document, provided the Court or person under the circumstances be satisfied that

there is sufficient reason for the non-production of the original.

XLVII. In cases of pedigree, the declarations of illegitimate members of the family, and also of persons who, though not related by blood or marriage to the family, were intimately acquainted with its members and state, shall be admissible in evidence after the death of the declarant, in the same manner and to the same extent as those of deceased members of the family.

Declarations
of illegitimate
persons, &c., ad-
missible in
questions of
pedigree.

XLVIII. On an inquiry whether a signature, writing, or seal is genuine, any undisputed signature, writing, or seal of the party, whose signature, writing, or seal is under dispute, may be compared with the disputed one, though such signature, writing, or seal be on an instrument which is not evidence in the cause.

Comparison of
hand-writing,
&c.

XLIX. Any power of attorney, which has been executed at a place distant more than 100 miles from the place wherein the action, suit, or proceeding is depending, may be proved by the production of it, without further proof, where it purports on the face of it, to have been executed before, and authenticated by a Notary Public, or any Court, Judge, Consul, or Magistrate.

Proof of Pow-
er of Attorney.

L. Whenever it is proved that a Letter Book is kept, and that, according to the usual course of business, letters are copied into such book and despatched, and the Letter Book is produced, and it is proved that the letter was despatched according to the usual practice, to the best of the knowledge and belief of the witness, having reasonable ground for forming that belief, the Court may presume the despatch of that letter according to the usual course of business.

Proof of des-
patch of letter
by Letter Book.

LI. Any book proved to have been kept for marking the despatch and receipt of letters, containing an entry of the despatch of a letter, and an acknowledgment of the receipt of such letter, shall, on proof that such entry was made in the usual course of business, be *prima facie* evidence of the receipt of such letter.

What to be
prima facie
proof of receipt
of letter.

Repeal of part
of Section VI of
Act XV of 1852.

LII. So much of Section VI of Act XV of 1852 as provides that every such application as therein mentioned shall be made before issue joined in any such action, or twenty-one days before the trial or hearing of any other legal proceeding as therein mentioned, is hereby repealed.

Extension of
Section XVI of
Act VI of 1854.

LIII. The provision contained in the 16th Section of Act VI of 1854, that affidavits of particular witnesses, or affidavits as to particular facts or circumstances, may, by consent of the parties, or by leave of the Court obtained upon notice, be used in the hearing of any cause on the Equity side of the Supreme Courts, shall extend to all civil actions, suits, and proceedings on all sides of the Courts.

Extension of
Section XVII of
Act VI of 1854.

LIV. So much of the 17th Section of the same Act as provides that, upon the hearing of any motion, petition, or other proceeding in any of the said Supreme Courts, the Court may, upon the application of any of the parties thereto, or of its own accord, require and enforce the attendance and oral examination before itself of any witness or of any party to the suit, and may also require and enforce the production of any document or documents, and may direct the costs of the attendance and examination of such witness or party to be paid by such of the parties to the suit, or in such manner as it may think fit, shall extend to all civil actions, suits, and proceedings on all sides of the said Courts.

Section
XXXIII of Act
VI of 1854 ex-
tended.

LV. The 33rd Section of the Act No. VI of 1854, which applies only to proof of accounts on the Equity side of the said Supreme Courts, shall extend to and embrace all accounts directed to be taken on any side of the said Courts.

Proof of offi-
cial documents.

LVI. Whenever by any Statute or Act, Regulation or Ordinance now in force, or any Statute or Act to be hereafter in force, any Certificate, certified copy, or other document, shall be receivable in evidence of any particular in any Court of Justice, the same, if it is substantially in the form and purports to be executed in the manner directed by the Statute, Act, Regulation, or Ordinance which makes

it evidence, shall be *prima facie* evidence, where it is rendered admissible, without proof of any seal, stamp, signature, character, or authority, which it is directed to have, or from which it is directed to proceed.

LVII. The improper admission or rejection of evidence, shall not be ground of itself for a new trial or reversal of any decision in any case, if it shall appear to the Court before which such objection is raised, that, independently of the evidence objected to and admitted, there was sufficient evidence to justify the decision, or that, if the rejected evidence had been received, it ought not to have varied the decision.

No new trial
for rejection or

LVIII. Nothing in this Act contained shall be so construed as to render inadmissible in any Court any evidence which, but for the passing of this Act, would have been admissible in such Court.

Act not to ren-
der inadmissible
evidence now
admitted in the
Companys
Court,

ACT No. III OF 1855.

GENERAL.

1. *Repeals Article IV of a Bombay Regulation, Registered the 11th July 1820.*

2. *Whoever instigates desertion from the Indian Navy or harbours or assists a deserter to be liable to a fine of Rs. 1,000.*

3. *Master of Merchant Vessel, if but for some neglect of his duty he might have been aware that a deserter was concealed on board, liable to a fine of Rs. 500.*

4. *Offences to be tried summarily by a Justice of the Peace or Magistrate.*

5. *Conviction of Justice to be quashed only on the merits, and need not state the evidence, provided the depositions show jurisdiction.*

6. *Proceedings may be taken either under this Act, or under Act XIV—1849, or any future Act.*

7. *Commander of the Indian Navy may issue warrants for apprehension of deserters.*

8. *Warrant to whom to be addressed and by whom to be executed.*

9. *Person to be apprehended how to be dealt with, but not to be detained in prison beyond 9 months from date of commitment.*

An Act for the better prevention of desertion from the Indian Navy.

Preamble.

WHEREAS it is expedient to amend and extend the laws in force for apprehending and detaining deserters from the

Indian Navy and for punishing persons who aid and encourage such desertion ; It is hereby enacted as follows :—

* Repeal of Article 4 of Bombay Rule, Ordinance, and Regulation of July 1820.

I. Article 4 of a Rule, Ordinance, and Regulation for the port of Bombay, passed by the Governor in Council and registered in the Court of the Recorder on the 11th day of July 1820, is hereby repealed in so far as it relates to seamen of the Indian Navy.

Penalty for instigating desertion from the Indian Navy or concealing deserter.

II. Whoever, directly or indirectly, instigates or procures any Officer, seaman, or other person belonging to the Indian Navy to desert, or knowing that any Officer, seaman, or other person belonging to the Indian Navy is about to desert, assists him in deserting ; or knowing any Officer, seaman, or other person belonging to the Indian Navy to be a deserter, harbours, conceals, or assists in concealing such deserter, shall, for every such offence, be liable to a fine not exceeding one thousand Rupees.

Penalty on Master in certain cases, if a deserter be concealed on board his ship.

III. If it shall appear that a deserter has been concealed on board any Merchant Vessel, and that the Master, or person in charge of such vessel for the time being, though ignorant of the fact of such concealment, might have known of the same but for some neglect of his duty as such Master or person, or for the want of proper discipline on board his vessel, such Master or person shall be liable to a fine not exceeding five hundred Rupees. Provided always, that no conviction for such minor offence as is lastly hereinbefore described, shall be lawful unless the same shall be stated in the charge which the party is called upon to answer ; and in such charge it shall be lawful to state in the alternative that the party has either knowingly harboured or concealed a deserter on board his vessel, or has by neglect of duty or by reason of the want of proper discipline on board the vessel, allowed such deserter to be so concealed.

Charge may be in the alternative.

Jurisdiction.

IV. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the Presidency Towns of Calcutta,

Madras, and Bombay, or for any of the Settlements of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in any port within the territories of the East India Company, within whose jurisdiction the offence may have been committed, or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such officer or not; and any person hereby made punishable by a Justice of the Peace, shall be punishable on summary conviction.

V. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Conviction to be quashed on merits only.

VI. Nothing in this Act contained shall prevent any Justice of the Peace, Magistrate, or other officer having authority in that behalf, from committing for trial any person who shall be charged with an offence punishable under Act No XIV of 1849, or any other Act hereafter to be in force, notwithstanding that such offence may be also punishable under this Act. Provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

Saving of proceedings under Act No. XIV of 1849.

Proviso.

VII. Whenever, on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the Commander-in-Chief of the Indian Navy, or other person who shall be in the performance of the duties of Superintendent of the Indian Navy, or his deputy, or, in their absence, to the Senior Officer of the

Commander-in-Chief of Indian Navy, &c., may issue Warrants for apprehension of deserters.

Indian Navy at any port or place within the territories of the East India Company, which oath or affirmation the several persons above-named shall severally under this Act have power to administer, or whenever, on such information as aforesaid, given to any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, having jurisdiction within such port or place, there shall appear reason to suspect that any Officer, Seaman, or other person belonging to the Indian Navy, who may have deserted or be absent without leave, is on board any ship, vessel, or boat, or is concealed on shore at any such port or place within the territories of the East India Company, it shall be lawful for such Commander-in-Chief of the Indian Navy, or person performing the duties of Superintendent of the Indian Navy, or his Deputy, or such Senior Officer, or Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate as aforesaid, to issue a Warrant authorizing the person or persons to whom such Warrant may be addressed to enter into and search, at any time of the day or night, any such ship, vessel, or boat, or any house or place on shore, and to apprehend any such Officer, Seaman, or person belonging to the Indian Navy, and to detain him in custody in order to his being dealt with according to Law.

Warrant to whom to be addressed, and by whom to be executed.

VIII. The Warrant to be issued under the preceding Section may be addressed to any persons in the Indian Navy, or to all Constables, Peace Officers, and other persons who may be bound to execute the Warrant of any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, and acting in the execution of this Act; and all such persons shall be bound to execute, perform, and obey such Warrant.

Persons apprehended how to be dealt with, &c.

IX. Every person who shall be apprehended as a deserter from the Indian Navy, under any Warrant under the 7th Section of this Act, shall be brought without delay before a Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in or

near the place wherein such person shall have been arrested, who shall examine such person, and if he shall be satisfied, either by the confession of such person or the testimony of one or more witness or witnesses, or by his own knowledge, that such person is a deserter from the Indian Navy, shall cause him to be placed on board some vessel of the Indian Navy, in order that he may be dealt with according to law; and if there shall be no such vessel in or near the place wherein such deserter shall have been apprehended, shall cause such deserter to be conveyed to the nearest or most convenient prison, and to be detained there until he can be placed on board a vessel of the Indian Navy for such purpose as aforesaid: and in every case in which any person shall be committed to prison as aforesaid, the committing Magistrate shall transmit an account thereof to the Commander-in-Chief of the Indian Navy or to the Officer commanding some vessel of the Indian Navy; and every person so committed to prison shall be entitled to his discharge from custody under such commitment, unless within three months from the date thereof he shall, on the requisition of the said Commander-in-Chief, or such other Officer as aforesaid, have been placed on board one of the vessels of the Indian Navy in order that he may be dealt with according to Law.

ACT No. IV OF 1855.

BENGAL.
ASSAM
COMPANY.

1. *Repeals Act XIV. 1851.*
2. *Continues the Assam Company as a body corporate for 20 years.*
3. *Assam Company empowered to hold or convey land in the N. E. parts of India for the cultivation of tea or any other products of land, except salt and opium.*
4. *Capital to consist of Rs. 5,000,000 in shares of Rs. 500 each, and to be increased at option, but not beyond Rs. 10,000,000.*
5. *Company not to raise loan beyond one-fifth of its Capital.*
6. *All the present property of the Company to vest in it in its corporate capacity.*
7. *Company empowered to make bye-laws; former bye-laws to continue in force.*
8. *Time and mode of holding general and extraordinary meetings; mode of counting votes, which may be given by proxy.*
9. *Books and accounts to be exhibited at the General Meeting, with*

abstract accounts and Balance Sheet, which, when passed by a meeting shall be published in Gazette and two Newspapers.

10. *Certificate of shares to be granted by two Directors, and such share to be transferred by deed, but not to be effectual till deed of co-partnership be complied with, and transfers registered and names of transferred entered in the share register book.*

11. *Shares to be deemed personally.*

12—13. *Bye-laws to direct mode and place and time of payment of unpaid shares and may charge arrears with interest, and provide for forfeiture of shares.*

14. *Antecedent contracts to be binding.*

15. *Copy of deed of association and of all rules, proceedings, and other instruments to be kept at the office of the Company, and in the Prothonotary's office in the Supreme Court, and the certified copy thereof to be evidence in all Indian Courts.*

16. *Names of directors and officers to be entered in a book at the office, and to be enrolled from time to time within 12 months after any change at the Prothonotary's office.*

17. *Name of Shareholders and all transfers of shares to be registered in a book at the Company's Calcutta office, and such book to be open for inspection by all persons.*

18. *Corporation to sue and be sued by its corporate name only, and process to be only against its corporate stock.*

19. *Service of process, &c., to be sufficient, if made on Secretary or Officiating Secretary.*

20. *Act to continue in force for 20 years from the passing thereof.*

An Act for incorporating for a further period, and for giving further powers to the Assam Company.

Preamble.

WHEREAS by Act No. XIX of 1845, the Assam Company was incorporated, and it was thereby enacted that the Act should continue in force until the 30th day of April 1854. And whereas by Act No. XIV of 1854, the operation of the above Act was continued until the 30th day of April 1855. And whereas it is expedient that the said Company should be incorporated for a period of twenty years to commence from the passing of this Act, and should have the powers, and be subject to the provisions hereinafter contained; It is enacted as follows:—

1. Act No. XIV of 1854 is hereby repealed, except as to contracts made, acts done, and liabilities incurred before the passing of this Act.

Act No. XIV
of 1854 repealed.

II. The several persons and corporations who now are and shall hereafter become proprietors or shareholders of the said Assam Company, and their respective successors, executors, administrators, and assigns, shall be and continue for the term of twenty years from the passing of this Act, a Company for the purposes herein declared, and shall, during such time, constitute and be one body corporate by the name and style of "The Assam Company," and shall have a common seal, and by that name shall and may sue and be sued.

"Assam Company" incorporated for 20 years.

III. It shall be lawful for the said Company to carry on, prosecute, and extend the cultivation of the tea plant in the lands which have already been granted to, and all and every the lands which may be taken by, or granted to the said Company in Assam and the North East parts of India, and to manufacture and dispose of the tea, the growth thereof, and generally to carry on the business of cultivating the tea plant, and manufacturing or preparing the same for sale and exportation, and also (if they shall deem it advisable) to engage in, prosecute, carry on, or extend the cultivation, manufacture, and preparation of all or any such other products of land, save as hereinafter excepted, as may be found expedient, and for such purposes to take and hold and make any such grants, leases, and purchases, and other acquisitions of land for any term of years as the Governor General in Council shall approve; such approval to be signified in writing under the hand of one of the Secretaries to the Government of India; and if requisite, to sell, dispose of, and alienate the same or any part thereof respectively: and to form, erect, and make all such establishments, buildings, works, and conveniences as the said Company shall think proper, and generally to use all such other ways and means as to the said Company shall seem meet for carrying into effect the objects aforesaid. Provided always that the said Company shall not engage in or prosecute the manufacture of salt or the cultivation or preparation of opium without the special license of the local Government first obtained.

Company empowered to hold land for the cultivation of the tea plant and other products

Proviso.

Capital of the Company.

IV. The capital of the said Company shall consist of Company's Rupees 5,000,000 to be contributed in 10,000 shares of Company's Rupees 500 each, which shall be the original capital of the said Company, and of such further sum as may be raised by the creation and sale of new shares as hereinafter provided for. Provided always that it shall and may be lawful for the said Company at any time, and from time to time, to increase the capital of the said Company to any amount not exceeding one crore of Company's Rupees altogether, by the issue of fresh shares of Company's Rupees 500 each upon such terms as to them shall seem fit.

Proviso.

Power to raise money by loan.

V. It shall not be lawful for the said Company to raise money by way of loan to a greater amount than one-fifth of the capital of the said Company.

All property vested in the incorporated Company.

VI. All and every the grants of land already made, obtained, or contracted for by the said Company, and the plantations and works made and erected thereon, and the produce thereof, and all offices, warehouses, and buildings, and all articles whatsoever there upon or appertaining thereto, or used therewith; and all property, real and personal, goods, articles, and things whatsoever purchased, taken, bought, grown, produced, or otherwise acquired for the purposes of the said Company, and all the estate, right, title, and interest whatsoever therein both at law and in equity, to all intents and purposes, shall henceforth vest in and belong to the said "Assam Company" and their successors in their corporate capacity; and no individual subscriber or shareholder thereof shall, as such, have or pretend to any estate, ownership, or right of property therein.

Power to make bye-laws. Former bye-laws to continue in force.

VII. The said Company shall have full power to make and constitute any bye-laws, rules, and regulations not repugnant to law or to this Act, for and relating to the government and affairs of the Company and for the government and guidance of the Directors and officers, and from time to time abrogate, alter, and vary the same; and such of the provisions of the deed of co-partnership or settlement of the said Company bearing date the 31st day of January 1840,

as have not since been altered or abrogated, and other the rules, bye-laws, and regulations of the said Assam Company now in force shall, until duly altered or abrogated, constitute and be the first bye-laws, rules, and regulations of the said Company under this Act, and shall have and take effect, as such, so far and in such particulars as the same are not repugnant to law or to this Act.

VIII. A general meeting of the said Company shall be held at the principal office or place of business of the said Company at Calcutta twice at the least in every year, and oftener, when and if need shall be; the time of holding which periodical meetings, and the form and mode of requisition for holding special or extraordinary meetings, and of advertizing and giving notice thereof respectively, shall be settled and determined by the bye-laws or rules of the said Company : and at all such meetings, whether periodical or special, every proprietor holding 5 shares and less than 20 shares shall be entitled to 1 vote, and every proprietor holding 20 and less than 50 shares to 2 votes, and every proprietor holding 50 and less than 100 shares to 3 votes, and every proprietor holding 100 shares and upwards to 4 votes and no more; but no proprietor shall be entitled to vote who shall not hold at least 5 shares ; provided, however, that the shares in respect of which any proprietor shall claim to vote shall have been hold for such period of time as is or shall be required by the bye-laws, rules, and regulations of the said Company. Provided also, and it is hereby enacted, that votes given by proxy according to any bye-law, rule, or regulation of the said Company, shall be deemed to be as valid and effectual as if given in person.

IX. At such general meetings as aforesaid, the books and accounts of the said Company shall be produced and exhibited for the inspection, examination, and approval of the subscribers or shareholders at large, and at each of such general meetings there shall be produced and presented by the Directors, or other officers of the said Company for the time being, a true account in abstract and balance sheet, showing

Time and mode
of holding general
and extraordinary
meetings.

Number of votes

Votes by Proxy

Account books,
and balance
sheet to be pro-
duced at general
meetings.

Balance sheet
to be published
in Gazette.

the whole of the receipts and disbursements and operations of the said Company commencing from the date of their next preceding general meeting and accounts brought down to the date of holding such general meeting at which the same shall be produced, or as near thereto as conveniently may be ; and such abstract account and balance sheet when examined, approved, or passed by such or any subsequent meeting, shall immediately be published in the *Calcutta Government Gazette* and in two public Newspapers of general circulation at Calcutta.

Certificate of
Share.

Share to be
transferred
deed, and &c.

Proviso.

X. A certificate signed by two at least of the Directors of the said Company shall, upon request, be delivered to every proprietor or shareholder of the said Company, and the shares of the said Company shall be transferable only by the execution of a deed or instrument of transfer in the form provided and sanctioned by the Directors for the time being of the said Assam Company. Provided always, that no such deed or instrument shall be effectual to transfer any share in the said Company until compliance with the provisions of the deed of co-partnership of the said Company, bearing date the 31st day of January 1840, and all the bye-laws, rules and regulations of the said Company, and until a memorandum or note of such transfer shall have been registered in the registry kept for that purpose at the office in Calcutta of the said Company, and until the name of the transferee of such share shall have been entered in the share register book of the said Company as the proprietor thereof.

Registry
transfer.

Shares to be
deemed personal
property.

XI. The shares of and in the said Company shall, as between the several proprietors thereof and their real and personal representatives and all other persons claiming under them, be deemed to be personal estate to all intents and purposes whatsoever and be transmitted and transmissible and disposed of accordingly.

Bye-laws to direct the mode of
payment by in-

XII. For the purpose of satisfying any demands upon the said Company, or for the purpose of raising any further

capital that shall become requisite for the purpose aforesaid, the several subscribers or shareholders shall pay up the whole or any part of the unpaid amount of their respective shares by instalments, to be called for by such persons in such manner, and to be paid at such times and places and manner as shall be appointed for that purpose by any bye-law or regulation of the said Company.

instalments of unpaid shares.

XIII. It shall be lawful for the said Company by bye-law or regulation to provide that, if any such instalment be not paid on or before the day fixed for the payment thereof, interest after any legal rate to be appointed by such bye-law or regulation shall be paid upon such instalment from such day up to the day when the same shall be actually paid, and the amount of any such call with interest shall be a debt due to the said Company, and it shall be lawful for the said Company in like manner to make any provision or provisions for the forfeiture of any share or shares on the non-payment of any such instalment and interest, or the restoration of any forfeited share or shares. Provided that no such forfeiture shall be incurred until after default shall have been made for at least 3 calendar months.

Bye-laws may direct interest to be charged on unpaid instalments or forfeiture of shares.

Proviso.

XIV. The said Company shall have the benefit of and shall be bound by all the contracts, acts, deeds, matters, and things which, up to the passing of this Act, have been legally made, done, executed, or performed under or by virtue of the said Acts No. XIX of 1845 or No. XIV of 1854 or the said deed of the 31st January 1840, and shall and may, in manner herein mentioned and provided, sue and be sued thereon, and in respect thereof, and shall have and be subject to the like rights and liabilities in respect thereof as the said Assam Company or the members thereof would have had and been subject to under or by virtue of the said Acts.

Contracts, &c., made prior to this Act, to be binding.

XV. A copy of the original deed of association of the said Company, and copies of all rules, orders, bye-laws, regulations, or proceedings of the said Company or other instruments whatsoever, whereby any change shall have been, or

Copies of the original deed of association and of all rules, &c., to be kept for inspection at the office of the Company and in

the Prothonotary's office at the Supreme Court.

shall at any time be made by the authority of the said Company in the provisions of the said original Deed of Settlement or co-partnership bearing date the 31st day of January 1840, shall be kept at the office of the said Company in Calcutta, and shall there be open to the inspection of all persons during the usual hours of business of the said office; and a copy of each such rule, order, bye-law, regulation, proceeding, or instrument as aforesaid shall also be deposited by the said Company, as soon as it can be done after the passing of this Act, or after the making of any such rule, order, bye-law, regulation, proceeding, or instrument hereafter to be made, in the office of the Prothonotary of the Supreme Court of Judicature at Fort William aforesaid, and shall be there filed, and be and remain open to the inspection of all persons during the usual hours of such office; and an examined copy of each such filed copy as aforesaid, certified by and under the hand of the Prothonotary for the time being of the said Supreme Court, shall be good and sufficient evidence of each such original deed, rule, order, bye-law, regulation, proceeding, or instrument in all actions, suits and proceedings whatsoever, whether Civil or Criminal, to be had in any Court of Justice, or before any Magistrate or other officer, whether acting judicially or in any proceedings preliminary to a judicial inquiry, throughout the territories for which the Governor General of India in Council has power to legislate.

Examined copies to be evidence.

Names of Directors and officers to be entered in a book at the office, and to be enrolled from time to time in the Prothonotary's office.

XIV. The said Company shall cause the name of each and every Director of the said Company, and also the name and proper official description of each and every Officer of the said Company and of every person acting and officiating for the time being as such officer, to be entered in a book to be kept at the said principal office in Calcutta of the said Company, to be there open to the inspection of all persons during the usual hours of business of the said office; and shall also, within six months from the time of passing this Act, cause a memorial of the said names and descriptions respectively to be enrolled in the said office of the Prothonotary of the said Court, and a fresh memorial thereof to be from time

to time enrolled and within 12 months after any change or changes shall be made or take place either in the direction aforesaid or in any of the said offices.

XVII. The said Company shall cause the names, places of residence or business, and descriptions of the business, profession, or employment of the proprietors of shares in the said Capital Stock, and the number of shares held by each proprietor, to be registered in a book and numbered in a regular consecutive series beginning with No. 1, and such book shall be kept at the said office in Calcutta of the said Company, and shall there be open to the inspection of all persons during the usual hours of business, and each successive transfer or change of ownership in the share or shares shall be entered in the manner above-mentioned with the like particulars above-mentioned in the said book, and against the original entry of such share or shares shall be entered a note of every such change of ownership or transfer, with a sufficient reference to the place or places in such book wherein is or are made the entry or entries of the name or names, place or places of residence or business, and descriptions of the proprietor or proprietors to whom or in whose favor such transfer or change, transfers or changes, shall have been made or had from time to time as aforesaid.

Names of shareholders and all transfers of shares to be registered.

XVIII. The said Company shall sue and be sued and described in and by its said corporate name and not otherwise, in all proceedings whatsoever, whether Civil or of a Penal or Criminal or other character, and whether the same be the proceedings of any Court, or of any Magistrate or other officer or person executing any inquiry either preliminary to, or in the nature of a judicial investigation or inquiry, and shall for all purposes of jurisdiction be capable of suing and proceeding, and be liable to be sued and proceeded against, in its said corporate name, character, and capacity in and before any Court, Magistrate, Officer, or person within any of the territories under the Government of the East India Company in respect of all matters and things over which such Court, Magistrate, Officer, or person respectively may have

Company how to sue and be sued, &c.

Process to be only against the corporate stock, &c.

Proviso.

jurisdiction, and to the extent of such jurisdiction in like manner as the same may for the time being be there had, by or against any British subject or subjects within the said territories. Provided always, that no process or proceeding whatsoever, whether of a mesne or final or other nature, shall be had against the person or property of any individual members, shareholders, or subscribers of the said Company, either for the purpose of giving notice of any suit or proceeding, or of effecting any appearance to any suit or proceeding, or of obtaining payment or satisfaction of any debt, claim, or demand against the said Company, or of levying any fine or penalty awarded against the said Company, or of obtaining payment or satisfaction of any judgment, decree, award, order, or determination against the said Company, or for any like purpose, but that all such process and proceedings of what nature soever shall be had solely against the said Company or the corporate stock, property, and effects of the said Company.

Service of process, &c., on Secretary, sufficient.

XIX. The service of all mesne and other process, rules and orders, and all notices whatsoever, which by law, or by the practice of any Court wherein the said Company shall sue or be sued or otherwise, are required to be made, served, or given for any purpose whatsoever to the said Company, shall and may be made, served, and given, in addition to all ways and means by which the same may otherwise be legally made, served, and given, upon or to the Secretary for the time being of the said Company resident in Calcutta or the person or persons acting and officiating as such, or by leaving the same addressed to the said Secretary or person acting and officiating as such at the principal office or place of business in Calcutta of the said Company.

Duration of Act.

XX. This Act shall continue in force for a period of twenty years to commence from the passing hereof.

ACT No. V OF 1855.

SUPREME
COURTS.

Recites expediency of assimilating the process of execution on all sides of the Supreme Court.

1. *Abolishes process of contempt to compel performance of certain orders.*

2. *Substitutes for it a ft. fa. or ca. sa., except in case of fine for a criminal offence.*

3. *Points out how the Sheriff shall deal with the money levied.*

4. *Substitutes an Officer of the Court to do certain acts in default of parties ordered.*

5. *Dispenses in some cases with performance of the act ordered.*

6. *Empowers the Court to order the Sheriff to carry into execution decrees for possession, &c.*

7. *Repeals Secs. 1 and 2 of Act XXV of 1841.*

8. *Retains the process of contempt for those cases in which the order cannot be otherwise enforced.*

9. *Empowers the Court to frame new writs of execution.*

10. *Interprets the words "party" and "person" and "Supreme Court."*

11. *Act to commence from 1st May 1855.*

An Act to assimilate the process of Execution on all sides of Her Majesty's Supreme Courts, and to extend and amend the provisions of Act XXV. of 1841.

WHEREAS it is expedient to make the process of execution on all sides of Her Majesty's Supreme Courts as near as may be the same; and also to extend and amend the provisions for giving effect to the decrees and orders of Her Majesty's Supreme Courts in certain cases which are contained in Act No. XXV. of 1841; It is enacted as follows:—

Preamble.

I. No process of contempt shall issue to compel the performance of so much of any judgment, decree, sentence, or order, either decretal or interlocutory, made by any of Her Majesty's Supreme Courts, as directs any person to pay any money or costs, or to execute any conveyance or other deed or instrument, or to make any transfer or surrender, or to do any act which a constituted attorney of such person, if ordered by the Court to do the same for his principal, would have the means of performing.

Process of contempt not to issue to compel performance of decree, &c., to pay money or to execute a deed, &c.

II. Where any person is liable to pay any money or costs upon a judgment recovered against him in any of the

Party in default, after judgment or order to pay money or

costs, to be pro-
ceeded against
by Ca. Sa. or Fi.
Fa. &c.

Proviso.

Sheriff how to
deal with mo-
ney levied.

Power to the
Court to appoint
an officer to exe-
cute instru-
ment, or to do
any act for the
person who has
been ordered
but has failed to
execute or do
the same.

said Courts, or has made default in the payment of any money or costs which by any order, decree, or sentence made in any proceeding by any of the said Courts on any side thereof, he has been ordered to pay, execution may be issued either against his person by a writ in the nature of the ordinary writ of *Capias ad Satisfaciendum*, or to levy such money or costs out of his property by a writ of *Fieri Facias* or *Venditioni Exponas*, according to the course and practice of the rules and orders to be made for giving effect to the provisions of this Act. Provided that nothing herein contained shall extend to a fine unpaid for a criminal offence, or alter the mode of compelling the payment of such fine.

III. The Sheriff shall pay the money which he may levy under any execution, either to the party named in the writ in satisfaction of his demand, or into Court according to the exigency of the writ which shall be in conformity with the order under which the money is payable.

IV. Whenever any person has been directed by any judgment, decree, sentence, or order of any of the said Courts to execute any conveyance, deed, or instrument, or to make any transfer or surrender, or to do any act which a constituted attorney of such person, if directed by the Court to do the same for his principal, would have the means of performing; and such person has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself in order to avoid service of the judgment, decree, sentence, or order, wherein such direction is contained, or by any other means; it shall be lawful for the Court by which such direction has been given, whether the person disobeying or evading compliance with such direction is in custody or not, upon application made to the said Court for that purpose, and upon proof to its satisfaction of such default or evasion as aforesaid, to order or appoint the Registrar, Master, or other officer of the said Court to execute such conveyance, deed, or instrument, or to make such transfer or surrender, or to do such other act as aforesaid, for and in the name of the person by whom the same ought to have been

executed, made, or done : and every conveyance, deed, and instrument which shall have been executed, and every transfer and surrender which shall have been made, and every other act which shall have been done by an officer of Court under the authority of this Act, shall in all respects have the same force and validity as it would have, if it had been duly executed, made, or done by the persons for and in whose name it shall have been so executed, made, or done.

V. If it shall appear to any of the said Courts, upon an application made to it under this Act, that it can safely dispense with the formal execution of any conveyance, deed, or instrument which the person directed to execute the same has failed to execute, or with the signature of any writing required for the formal performance of any act required to be done but omitted to be done by the person directed to do the same, it shall be lawful for the said Court, in lieu of ordering its officer to execute the said conveyance, deed, or instrument, or to sign the said writing, by its order to declare that such conveyance, deed, instrument or writing shall be as valid and effectual to all intents and purposes without the execution or signature of the person directed to execute or sign the same, as it would have been if he had duly executed or signed the same.

Or in certain cases to dispense with the execution of an instrument or the signature of a writing.

VI. When any person has been directed, by any judgment, decree, sentence, or order of any of the said Courts to deliver up possession of any immoveable property or of any specific chattel or security, or to deliver to any person or persons, or to deposit in Court or elsewhere any books, papers, writings, or other articles or things, and has refused or neglected to obey such direction, or has evaded compliance therewith, either by absenting himself to avoid service of the said judgment, decree, sentence, or order, or by any other means, it shall be lawful for the Court by which such direction has been given, whether such person is in custody or not, on proof of such default or evasion as aforesaid, to issue a writ or writs to the Sheriff, directing him either to put the party therein named into possession, or to seize and take

The Court may enforce delivery of immoveable property or a specific chattel or the deposit of any books, papers, articles or things, by seizure.

such chattel, security, books, papers, writings, or other articles or things, and to deal with the same according to the exigency of the writ, which in all cases shall be conformable to the order, to compel the performance whereof the same is issued. But nothing herein contained shall authorize the Sheriff to disturb the *bonâ fide* possession of any person other than the person against whom such order is made.

Proviso.

Repeal of 1st
and 2nd Sections
of Act XXV. of
1841.

VII. The first and second Sections of Act No. XXV. of 1841, except as to all proceedings which shall have been had or commenced thereunder before this Act comes into operation, are hereby repealed.

Power reserved
to issue process
of contempt to
compel obedience
to orders which
cannot be other-
wise enforced.

VIII. Nothing in this Act contained shall prevent any of the said Courts from issuing process of contempt, according to its present course of practice, on its Equity side against the person of any party who has been ordered to do any act other than the payment of money or costs, or the execution of any conveyance, deed, or other instrument, if obedience to such order cannot otherwise be enforced, or against the person of any party who has committed a breach of any injunction; and the Court may issue such process of contempt on any of its sides, and in such cases shall have and may exercise all powers which it now has touching the commitment, detention, or discharge of any person taken under process of contempt issued on its Equity side.

Court may
frame writs of
execution.

IX. It shall be lawful for Her Majesty's Supreme Courts to frame such new or altered writs of execution as they shall deem necessary or expedient for giving effect to the provisions hereinbefore contained, and by the Rules or Orders to be made under this Act, to regulate the mode of issuing and executing such writs of execution.

Interpretation
Clause.

X. The words "person" and "party" as used in this Act shall be understood to include any body corporate, and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such

construction ; and the term "Her Majesty's Supreme Courts" shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

XI. This Act shall take effect from the 1st day of May next.

Commence-
ment of the
Act.

ACT NO. VI. OF 1855.

SUPREME
COURTS.

1. Sheriff under any writ of *fi. fa.* may seize and sell any immoveable property whether the judgment debtor's interest in it be legal or equitable.

When Judgment debtor is in possession, Sheriff to put purchaser in possession.

When judgment debtor not in possession, Sheriff not to seize, but to sell debtor's interest.

If property be in the *Mofussil*, Sheriff to notify sale to the *Zillah* Judge, who shall have it proclaimed.

If the property be in the *Mofussil* and immoveable, Sheriff shall publish the notice of sale in the Collector's Office for different lengths of time according to distance.

2. In what case judgment debt may be raised by mortgage instead of sale.

3. Sheriff under any writ of *fi. fa.* may seize money, bank notes, &c., and to pay same to execution creditor, and by order of Court to endorse over, and without such order to hold cheque, bill of exchange, &c., and to sue in his own ~~for~~ amount secured by bill of exchange, &c. or for debts. Sheriff how to be indemnified.

4. Sheriff may receive interest on Government Security seized by him, and may sell or if necessary endorse such security.

5. No debt to be sold by Sheriff.

6. Shares in a Public Company may be charged with payment of the amount due in execution, subject to application of person affected thereby.

7. Property standing in name of any Officer of Court may also be so charged.

8. Party arrested under *ca. sa.*, entitled to discharge on payment or tender of the amount of the levy to opposite party or his attorney or to Sheriff or Jailor.

9. Written order of attorney issuing *ca. sa.*, sufficient for the discharge of a party by Sheriff or Jailor, unless the client shall give written notice to the contrary. Attorney not to give order for discharge without consent of client.

10. Sheriff not to be liable for escape, &c., beyond the loss really occasioned.

11. *Writ of execution, if unexecuted, not to remain in force for more than one year, unless renewed. Renewed writ entitled to same priority as its original. Writ of Habere fucias not to be renewed without special leave.*

12. *Production of writ or of notice of renewal sufficient evidence of renewal.*

13. *Under writ of sequestration all property may be seized as under fi. fa. Sum to be levied may be levied as under fi. fa.*

An Act to extend the operation of, and regulate the mode of executing, Writs of Execution in Her Majesty's Supreme Courts of Judicature.

Preamble.

WHEREAS it is desirable to extend the operation of, and regulate the conduct of writs of execution out of Her Majesty's Supreme Courts in certain cases; It is enacted as follows:—

Sheriff under any writ of fieri fucias may seize and sell any immoveable property whether the interest be legal or equitable.

I. *Clause 1.* Under any writ of *fieri fucias* issued out of any of Her Majesty's Supreme Courts, on any side of the Court, may be seized and sold any lands, houses or other immoveable property of the party against whose effects such writ issues, whether his estate or interest therein be legal or equitable.

When property is in possession of judgment debtor, Sheriff to put purchaser in possession.

Clause 2. The Sheriff under any such writ may put the purchaser in possession of such of the lands, houses or other immoveable property sold under such writ, of which the judgment debtor is in the actual possession, and of which an actual delivery can be made.

Otherwise, Sheriff not to seize but to sell debtor's interest.

Clause 3. If the lands, houses or other immoveable property liable to be sold under such writ be in the possession of any person other than the judgment debtor, the Sheriff shall not seize such property, but shall sell and convey all the right, title and interest of the debtor; and such conveyance shall pass the same interest to the purchaser as if the same had been executed by the debtor.

Effect of conveyance.

Sale when to be notified to Judge of the District.

Clause 4. In such last mentioned case if the property shall be situate beyond the local limits of the jurisdiction of such Court, the Sheriff shall notify such sale to the Judge of the District, who shall cause notice of the same to be officially

Proclamation of sale.

proclaimed, in like manner as if the sale had been effected under a decree of his own Court.

Clause 5. In any case of intended sale of immoveable property beyond the local limits of the jurisdiction of such Supreme Court, the Sheriff shall cause a notice specifying the time and place of the intended sale, to be stuck up in some conspicuous place in the office of the Collector of the district within which such property is situate and also at the Mal Cutcherry of the estate, if any; otherwise, on some conspicuous part of the property to be sold. The number of days between the publication of such notice and the sale shall not be less than fourteen days, if the property be not distant more than 100 miles from the Supreme Court; if the distance shall exceed 100 miles, the number of days shall be increased by an additional day for every 50 miles of such excess of distance. Provided that the want of such notice or any irregularity in respect thereof, shall not vitiate the sale in the hands of a *bond fide* purchaser.

Notice of sale when to be published in the office of Collector, &c.

Length of time for publication of notice.

Proviso.

II. If any lands, houses, or other immoveable property be seized or liable to be sold under any such writ, it shall be lawful for the Court, on application to it on behalf of the execution debtor or of any one of several execution debtors, if the Court shall be satisfied that there is reasonable ground to believe that the amount of the judgment may be raised by mortgage of the estate, to postpone the sale for a term not exceeding one month to enable the defendant to raise the amount, and to direct that the money ordered to be levied by such execution shall be raised by mortgage instead of sale of such lands, houses or other immoveable property, upon such terms as to the payment of interest upon the judgment or otherwise as the Court may think fit, and in such case to give all necessary directions for the execution of such mortgage.

In what case judgment may be raised by mortgage instead of sale.

III. Under any such writ of *fiery facias* may also be seized money, bank-notes, cheques, bills of exchange, promissory notes, hoondees, Government securities, bonds, or other securities for money and also debts belonging to the said

Sheriff empowered under any such writ of *fiery facias* to seize money, bank-notes, &c.

And to pay money or bank-notes to execution creditor.

And with the order of the Court to endorse over, and without such order to hold cheques, bills of exchange, &c.

And to sue in his own name for amount secured by bills of exchange, &c.

Or for debts.

Provided, as to indemnity for Sheriff.

person ; and the Sheriff or other officer having the execution of the writ shall be at liberty to pay or deliver over to the party suing out such execution, any money or bank-notes which shall so be seized, or a sufficient part thereof, and shall, with the order of the Court, endorse over or transfer, and without such order, shall hold any such cheques, bills of exchange, promissory notes, hoondecs, bonds, or other securities for money as a security or securities for the amount by such writ of *fieri facias* directed to be levied, or so much thereof as shall not have been otherwise levied and raised, and may, where he retains the same, sue in his own name as such Sheriff or officer, for the recovery of the sum or sums secured thereby, or for any debt seized as aforesaid, when the time of payment thereof shall have arrived ; and the payment to such Sheriff or other officer, or to the party entitled under such endorsement or transfer, by the party liable, with or without suit, or the recovery and levying execution against the party so liable, shall discharge him to the extent of such payment or of such recovery and levy in execution as the case may be, from his liability on any such cheque, bill of exchange, promissory note, hoondec, bond, security, and debt ; and such Sheriff or other officer shall pay over to the party suing out such writ, the money so to be recovered, or such part thereof as may be sufficient to discharge the amount by such writ directed to be levied ; and if, after satisfaction of the amount so to be levied together with Sheriff's poundage and all lawful charges and expenses, any surplus shall remain in the hands of such Sheriff or other officer, the same shall be paid to the party against whom such writ shall be so issued, unless the same is duly attached in the hands of such Sheriff or other officer. Provided that no Sheriff or other officer shall be bound to sue any party liable upon any such cheque, bill of exchange, promissory note, hoondec, bond, security, or debt, unless the party suing out such execution shall give security to the Sheriff for indemnifying him from all costs and expenses to be incurred in the prosecution of such action, or to which he may become

liable in consequence thereof; the nature and amount of such security to be determined, in case they cannot agree, by the proper officer of the Court in which such action shall be brought, or if the Court shall so order, by some other person to be appointed by the Court for such purpose; and the expense of preparing and executing such security shall be deducted out of any money to be recovered in such action, and the net proceeds only in this and other cases provided for by this Act shall be considered as received in satisfaction of the debt due to the execution creditor.

IV. If the Sheriff or other officer under any writ of *fieri facias* shall seize any Government security standing in the name of, or belonging to, the party against whose property such writ shall be issued, he shall have power to receive the interest due on such Government security, whether specially endorsed or otherwise, and to sign a receipt for the same; and also to sell and dispose of such Government security through a broker at the market rate of the day; and if the endorsement of such party shall be required to transfer such Government security, the Sheriff or other public officer shall endorse the same thus, "A. B. by C. D. Sheriff;" and such endorsement shall be as effectual to pass the said Government security and to give a good title to the holder thereof as if the same had been endorsed by the party himself or his duly constituted attorney.

Sheriff empowered to receive interest on Government security seized by him.

And to sell, and where endorsement necessary to endorse such security.

V. No debt shall be sold by the Sheriff under the process of the said Court, any Charter of any of the said Supreme Courts to the contrary notwithstanding; but the same shall be realized in the mode hereinbefore directed.

No debt to be sold by Sheriff.

VI. If any person against whom any writ of execution shall have issued shall have any interest in any stock or shares in any public Company, whether incorporated or not, carrying on business in India and within the reach of the process of the Court out of which such writ of execution has issued, it shall be lawful for the said Court or for any Judge thereof, on the application of the party who has sued out

Shares in public Company may be charged in execution.

such writ of execution, to make an order *ex parte* that such interest in such stock or shares, or such of them or such part thereof respectively as the said Court or Judge shall think fit, shall stand charged with payment of the amount due in respect of such writ of execution ; and such order shall have the like effect and entitle the person in whose favor the same is made to the same remedies and priorities as a charge executed in favor of such person by the person against whom execution* shall have been issued ; and service or notice of such order upon or to the public Company whose stock or shares are the subject of such order, or upon or to any person claiming an interest in such stock or shares, shall have like effect and shall entitle the person in whose favor such order is made to the same remedies against such public Company or such last mentioned person as notice of a charge executed of even date with such order by the person against whom execution shall have been issued in favor of the person at whose suit the same shall have been issued. Provided that nothing herein contained shall prevent the person against whom such order shall have been made, or any other person effected thereby, from applying to the Court or Judge by whom such order has been made ~~for~~ its discharge on such grounds as may be just.

Proviso.

Property standing in name of any officer of Court.

VII. If such debtor shall have any interest in any property which shall be standing in the name of the Accountant General of the Court or of any other officer of the Court, or in the dividends, interests or annual produce thereof, it shall be lawful for the Court or a Judge to make an order that the interest of the defendant in such property shall be applied in payment of such debt, and the Court or Judge shall have power to make such order as may be necessary to give full effect to the above provision.

Party arrested entitled to discharge on payment or tender of the amount of levy to opposite party or his Attorney or to Sheriff or Gaoler.

VIII. A plaintiff or defendant arrested under any writ of *capias ad satisfaciendum* issued upon any judgment, order, decree or sentence of any of the said Courts whereby money is ordered to be paid to any party, shall be entitled to his discharge from such arrest on payment or tender to such

party or his attorney in the cause, or to the Sheriff or Gaoler, in whose custody such person may be under such writ, of the amount directed to be levied by such writ.

IX. A written order under the hand of the attorney in the cause by whom any writ of *capias ad satisfaciendum* shall have been issued, shall justify the Sheriff, Gaoler, or person in whose custody the party may be under such writ in discharging such party, unless the party for whom such attorney professes to act shall have given written notice to the contrary to such Sheriff, Gaoler, or person in whose custody the opposite party may be; but such discharge shall not be a satisfaction of the debt, unless made by the authority of the creditor; and nothing herein contained shall justify any attorney in giving such order for discharge without the consent of his client.

X. A Sheriff shall not be liable in an action for escape or other breach of duty, to pay damages beyond the amount of the loss which his breach of duty has really occasioned.

XI. A writ of execution sued out after the commencement of this Act, if unexecuted, shall not remain in force for more than one year from the date of such writ, unless renewed in the manner hereinafter provided; but a writ of execution, whether sued out before or after the passing of this Act, may, at any time before its expiration, be renewed by the party issuing it for one year from the date of such renewal, and so on from time to time during the continuance of the renewed writ, by being marked with the seal of the Court and with a memorandum, signed by the officer, of the date of the day, month and year of such renewal, or by such party giving a written notice of renewal to the Sheriff signed by the party or his attorney and bearing the like seal of the Court and memorandum signed by the officer as aforesaid; and a writ of execution so renewed shall have effect and be entitled to the same priority as the original writ would have had. Provided however that no writ of *habere facias possessionem* shall be renewed without the special leave of the Court or a Judge.

Written order of attorney sufficient for the discharge of a party by Sheriff or Gaoler, unless the client have given written notice to the contrary.

Attorney not justified in giving order for discharge without the consent of his client.

Sheriff not to be liable for escape, &c. beyond the amount of the loss really occasioned.

Writ of execution, not to remain in force more than one year, unless renewed.

But may be renewed from time to time.

Renewed writ entitled to same priority as its original.

Proviso.

Production of writ or of notice of renewal sufficient evidence of renewal.

XII. The production of a writ of execution or of the notice renewing the same, purporting to be marked with such seal and signed as aforesaid, showing the same to have been renewed according to this Act, shall be sufficient evidence of its having been so renewed.

Under a writ of sequestration all property may be seized in like manner as under a *f. fa.*

XIII. All property of every kind that may be seized under a writ of *fieri facias*, issued from the said Supreme Courts respectively, may be seized also under a writ of sequestration duly issued from the same, and the seizure must in all cases be made in the mode directed by this Act as to seizures under writs of *fieri facias*, and any sum ordered by the Court to be realized by a sequestration shall be realized in the same mode, and not otherwise, as if directed to be levied under a writ of *fieri facias*.

Interpretation Clause.

XIV. The words "person" and "party" as used in this Act shall be understood to include any body corporate, and though used so as to import the singular number or the masculine gender only, shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction; and the term "Her Majesty's Supreme Courts" shall be understood to include the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca.

SUPREME COURTS.

ACT No. VII. OF 1855.

1. *Arrest on mesne proceeds not to take place without order of Judge. Granting of order to be discretionary.*
2. *No order for arrest to be made without affidavit of debt or damage to Rupees 200, and probable cause for believing either. That defendant is concealing himself, or about to abscond, &c.; or That he is removing his property, or disposing of it.*
3. *Order of arrest may be made at any stage of the cause.*
4. *Before making order, Court may examine plaintiff, &c.*
5. *Copy of affidavit to be given to Sheriff and to be delivered to defendant at time of arrest.*
6. *Person arrested may apply to Court or Judge for his discharge, and shall be discharged if plaintiff delay after arrest. Court may discharge Judge's order.*

7. *If motions for discharge be made on affidavit, plaintiff may oppose by further affidavit.*

8. *At the hearing, Court may compel attendance of parties or witnesses, and of persons in custody on Civil process.*

9. *Persons now in custody on mesne process to be entitled to discharge on entering common appearance. Proviso.*

10. *Subsistence money to be deposited before arrest on mesne or final process or by attachment—amount and application thereof—various provisions regarding it.*

11. *Order of discharge to be sufficient authority for sheriff or jailor as to that suit, but prisoner not to be discharged without certificate from proper officer of Court.*

12. *Keeper of prison to report to the Court the name of any prisoner unable to maintain himself and complaining of unjust arrest.*

13. *Order under this Act to be sufficient justification to sheriff, &c.*

14. *Construction of Act.*

15. *Act not to affect rules of Court not inconsistent therewith, or provisions of Insolvent Debtors' Act.*

16. *What shall be the equivalents for dollars and cents in the application of this Act to the Straits' Settlements.*

An Act to amend the law of arrest on mesne process in Civil Actions in Her Majesty's Courts of Judicature, and to provide for the subsistence of Prisoners confined under Civil process of any of the said Courts.

WHEREAS it is expedient to amend the law of arrest in the Supreme Courts of Judicature at Fort William in Bengal, Fort St. George, and Bombay and in the Court of Judicature of Prince of Wales' Island, Singapore and Malacca; It is hereby enacted as follows:—

Preamble.

I. No person shall be arrested or held to bail upon mesne process in any action at law now pending or which shall be commenced in any of the said Courts, unless an order authorizing such arrest be made by the Court in which the action is pending or shall be commenced, or by one of the Judges thereof: and it shall be in the discretion of the Court or Judge in any case to grant or refuse an order.

No arrest upon
mesne process
without order of
Court or Judge.

_____ of or-
der to be discre-
tionary.

II. Provided that no such order shall be made unless the Court or Judge shall be satisfied by affidavit of the plaintiff

No order for
arrest to be made
without affidavit
of debt or damage

to the amount of 200 Rupees and probable cause for believing—

That defendant is concealing himself or about to abscond, &c.

That he is removing his property.

That he has disposed or means to dispose of his property.

Order for arrest in any stage of cause and against one or several defendants.

Before making order, Court may examine plaintiff or other person.

Copy of affidavit to be delivered to Sheriff and to be given to defendant at the time of arrest—

Person arrested may apply to Court or Judge for his discharge.

or of some other person, that the plaintiff has a good cause of action against the defendant to the amount of two hundred rupees or upwards either for debt or for damages, and in addition thereto, that there is probable cause for believing—

1,—That the defendant has absconded or is concealing himself for the purpose of avoiding service of the process of the Court, or that he is about so to do, or—

2,—That he has withdrawn or is about to withdraw himself or his property or effects, or some part thereof, from the jurisdiction of the Court, for the purpose of avoiding the process of the Court, or under such other circumstances as to induce the Court or Judge to believe that the ends of justice are likely to be defeated unless a *capias* or warrant of arrest be issued against him, or—

3,—That he has removed, concealed or disposed of his property or effects, or some part thereof, for the purpose of defrauding his creditors generally or the plaintiff in the action, or that he is about to do so.

III. An order for arrest may be made, and a *capias* or warrant may be issued thereon, in any stage of the cause before final judgment, and against one or more of several defendants.

IV. Previously to making such order, the Court or Judge may require the personal attendance of the plaintiff, and of any person who shall make an affidavit for the purpose of obtaining such order, and of any other person whom the Court or Judge shall think fit to examine, and may examine them orally upon oath.

V. A copy of every affidavit upon which such order shall be founded shall be delivered to the Sheriff with the writ or warrant to be issued in pursuance of the order, and shall be delivered to the defendant at the time of his arrest or detention under the writ, otherwise the Court or Judge may order the defendant to be discharged.

VI. Any person arrested or detained upon any such Writ of *Capias* or Warrant of Arrest may apply to the Court, or to a Judge thereof, for a rule or summons calling on the

plaintiff to show cause why the person arrested should not be discharged out of custody, and the Court may make absolute or discharge such rule, and may direct the costs of the application to be paid by either party, or may make such order as to the Court shall seem fit; and in the case of a summons, a Judge shall make such order thereupon as he shall think fit. Provided that such rule shall be made absolute, or, in the case of a summons, an order for the defendant's discharge out of custody shall be made, in every case in which the Court or Judge shall be satisfied that the plaintiff, in any stage of the cause subsequent to the arrest, has been guilty of unreasonable delay in pleading or in bringing on for trial or argument any issue of fact or law, notwithstanding the delay may not be such as to entitle the defendant to sign judgment of Non Pros., or to apply for judgment as in case of a nonsuit; and provided also, that any order made by a Judge under this Act may be discharged or varied by the Court on application made thereto by either party dissatisfied with the order.

Person arrested to be discharged if plaintiff is guilty of delay after arrest.

Judge's order may be discharged, &c. by Court.

VII. If any motion or application for the discharge of a defendant be made upon affidavit, but not otherwise, the plaintiff may oppose the same by affidavits in addition to that upon which the order for the arrest was made.

If motion for discharge be made upon affidavit, plaintiff may oppose it by further affidavits.

VIII. The Court or Judge may order and compel the personal attendance at the hearing of any motion or summons of both or either of the parties, and also of any other person whom the Court or Judge shall think fit to examine, and may examine such person or persons orally upon oath, or may allow him or them to be examined and cross-examined upon oath, and the Sheriff or Gaoler shall be bound to bring before the Court or Judge any prisoner detained in his custody on civil process, whose attendance may be so ordered.

At the hearing of the motion, Court may compel attendance of the parties or witnesses.

IX. Every person now in custody upon mesne process issued out of any of the said Courts of Judicature for any debt or demand, and who shall not have filed a petition to be discharged under the laws in force for the relief of Insolvent Debtors in India, shall be entitled to his discharge

now in mesne process he is entitled to their discharge.

Proviso.

at the expiration of one month from the time of the passing of this Act, upon entering a common appearance to the action. Provided nevertheless, that every such prisoner shall be liable to be detained, or after such discharge to be again arrested, by virtue of any writ of *capias* or warrant of arrest issued in pursuance of the provisions of this Act.

Deposit of subsistence money before arrest on mesne or final process or by attachment.

X. Clause 1.—The person at whose suit any such mesne process, or any writ of execution for the arrest of a defendant, or any writ of attachment for the arrest of any person for the non-payment of money in the nature of Civil process shall be issued out of any of the said Courts, shall, previously to the arrest being made, deposit with the Sheriff or other officer to whom such mesne process or writ shall be delivered for the purpose of executing the same, a sum of money sufficient to provide for the subsistence of the defendant for the period of thirty days, at the rate of four annas a day, which sum, or so much thereof as shall be necessary, shall be applied by the Sheriff or other officer for the subsistence of the person arrested from the time of the arrest until he shall be lodged in gaol, and the balance, if any, shall be deposited by such Sheriff or other officer with the keeper of the gaol to which the person arrested shall be committed.

Sheriff to give plaintiff notice of arrest.

Clause 2.—The Sheriff or such other officer by whom an arrest shall be made by virtue of any such writ or process, shall, before or forthwith after the defendant shall be lodged in gaol, give notice of the arrest, and of the date on which the same was made, to the plaintiff or his attorney.

Further deposit of subsistence money after the arrest and during detainment.

Clause 3.—The person at whose suit such mesne process, writ of execution or attachment shall be issued, shall, at or before the end of thirty days from the date of the arrest, or within a reasonable time after he shall have had notice of the arrest, if he shall not have had notice thereof within such period of thirty days, deposit with the Sheriff or with the keeper of the prison in which the person arrested shall be lodged, a further sum at the rate aforesaid for the subsistence of the prisoner for the next ensuing thirty days, and shall continue to make a similar deposit in advance at or before the

end of such period of thirty days and of every subsequent period of thirty days, during which the prisoner shall be detained in custody, and for every such deposit the Sheriff or keeper of the gaol, or other officer as the case may be, shall give a receipt for the same dated on the day on which the money shall be paid.

Receipt for deposit.

Clause 4.—It shall be lawful for the Court out of which any such writ shall issue, or for any Judge thereof, to reduce the rate at which deposits are above ordered to be made, so that the rate ordered be not less than one anna a day, or in case of illness or other special cause to order the deposit to be increased to a rate not exceeding eight annas a day; and every such order may from time to time be revised and altered by the Court or any Judge thereof, on sufficient grounds being shown.

Rate of deposit may be varied by Court out of which writ issues.

Clause 5.—If the deposit required to be made previously to the arrest be not made, no arrest shall be made. If any deposit hereby required to be made after the arrest, be not made on or before the day on which it ought to be made, the Court may, upon the application of the prisoner, order him to be discharged out of custody.

Deposit must be made before arrest.

Person arrested to be discharged if subsequent deposit not duly made.

Clause 6.—If any prisoner in execution be discharged out of custody by reason of a failure to make such deposit as aforesaid, the imprisonment shall not extinguish or affect his liability to pay the amount of any sum of money for which he was arrested, or to prevent any execution from being issued against his property.

Such discharge of a prisoner in execution not to affect his liability.

Clause 7.—The provisions of this Act are to be held applicable to all persons at present in confinement under Civil process, so far as relates to the deposit to be made in future by the parties at whose instance they are confined and to their immediate discharge on failure to make such deposit on or before the day on which it becomes due—The first deposit to be made within thirty days after the passing of this Act.

Provisions of these clauses to whom applicable.

Clause 8.—The money so deposited shall be employed for the subsistence of the prisoner.

Deposit to be applied for subsistence of prisoner.

Clause 9.—The amount spent in providing subsistence for a prisoner detained upon mesne process shall be costs in the cause.

Amount spent in subsistence of prisoner detained on mesne process to be costs in the cause.

Amount spent in subsistence of prisoner detained in execution to be added to the judgment.

Clause 10.—The amount spent in providing subsistence for a prisoner detained in execution shall be added to the amount of the judgment, and the prisoner shall be liable to be detained in execution for the amount, in the same manner as if such amount had been included in the judgment and writ of execution.

Amount spent in subsistence of person detained under attachment shall be deemed part of the demand.

Clause 11.—The amount spent in providing subsistence for any person detained under any such writ of attachment as aforesaid, shall be deemed part of the demand in respect of which the attachment was issued, and shall subject the prisoner to the same liability as if the attachment had been issued for the non-payment thereof to the person making the deposit.

Return of unspent money.

Clause 12.—All money deposited as aforesaid, which shall not have been spent at the time of the prisoner's discharge from custody, shall be returned to the person who made the deposit.

Effect of order for discharge of prisoner.

XI. Any order of the Court or of a Judge for the discharge of a prisoner under the provisions of this Act, shall be a sufficient authority to the Sheriff and Gaoler for such discharge, so far as concerns the action or suit to which such order relates. Provided that, when an order shall be made for the discharge of a prisoner upon his entering a common appearance, such discharge shall not be made until a certificate shall be produced to the keeper of the prison from the officer of the Court with whom appearances are entered, to the effect that an appearance has been entered according to the terms of the order.

Proviso.

Keeper of prison, &c., when to report to Court the name of prisoner complaining.

XII. It shall be the duty of the Sheriff and of the keeper of every prison in which any person shall be confined under any such process as above mentioned, to report to the Court out of which the process issued, the name of every prisoner confined under such process who shall appear to be unable to maintain himself in prison, or who shall complain that he has been arrested without cause, and it shall be lawful for the Court or a Judge upon any such report to cause the prisoner to be forthwith brought before them, or to make such other order as may seem fit; and the Sheriff

Service of rule &c. by Sheriff.

shall be bound to serve any rule, summons or order made under this Act, which the Court or Judge shall order him to serve.

XIII. Any rule or order made in pursuance of the provisions of this Act shall be a sufficient justification for any Sheriff, Gaoler or other Officer for any act which he may do in pursuance thereof.

Order under this Act to be sufficient justification to Sheriff, &c.

XIV. In the construction of this Act, the word "affidavit" and the word "Oath" shall include affirmation in cases where "Affirmation" is allowed instead of an oath, and unless there is anything in the context repugnant to such a construction; words in the singular number shall include the plural, and words in the masculine gender shall include females.

Construction of Act.

XV. Nothing in this Act is intended to alter or affect any rule in force in any of the said Courts, not inconsistent herewith or any of the provisions of the Act in force for consolidating and amending the law relating to Insolvent Debtors in India.

Act not to affect rules of Court not inconsistent herewith, or provisions of Insolvent Debtors Act.

XVI. In the application of this Act in the Settlement of Prince of Wales' Island, Singapore and Malacca, a dollar shall be deemed equal to two rupees and one-fifth of a rupee, and three cents shall be deemed equal to one anna.

Equivalents for dollars and cents in the application of Act to the Straits Settlement.

ACT VIII. OF 1855.

GENERAL.

1, 2. *Fix the designation and mode of appointment, suspension and removal of Administrators General in the three Presidencies.*

3. *Present incumbents to continue to hold the office.*

4. *Administrator General not to be an Officer of the Supreme Court.*

5. *Letters of administration to estates vested in the Ecclesiastical Registrar of the Madras Supreme Court transferred to him as Administrator General.*

6. *No Administrator General to be Ecclesiastical Registrar, or to hold any other office without sanction, except the present Administrator General of Madras.*

7. *Every Administrator General to give security of one lakh of Rupees by his own bond, &c., and for another lakh by deposit of Government securities, or by joint and several bonds of two or more securities.*

8. *Supreme Court not to require bond or other security.*
9. *Administrator General entitled to letters of administration, unless granted to next of kin, in preference to creditor or friend.*
10. *The words next of kin to include any person who by law or practice would be entitled in preference to a creditor. Administration not to be granted to any officer of Court as such.*
11. *If any person, either Mahomedan or Hindoo, shall die leaving assets beyond Rs. 500 and probate, &c., shall not have been applied for, Administrator General shall take steps to obtain letters of administration from the Supreme Court.*
12. *Whenever any person shall die leaving assets within jurisdiction of the Supreme Court, and such assets shall be in danger of misappropriation, the Court on application, may order Administrator General to apply for administration.*
13. *Repeals Act XIX 1841 S. 20.*
14. *If any person dies leaving property within local limits of Supreme Court's jurisdiction, and such property be in danger of misappropriation before the right to succession or administration can be obtained, the Court may enjoin Administrator General to collect and hold the same. Administrator General's commission to be 1 per cent.*
15. *Administrator General may be Official Trustee.*
- 16, 17. *If any executor or next of kin appear, during proceedings taken by Administrator General, to obtain administration, probate, &c. administration shall be granted to them, subject to Administrator General's cost. Otherwise administration to be granted to Administrator General.*
18. *Administrator General not precluded from applying for administration within a month.*
19. *If administration be revoked, Administrator General's letters to be deemed voidable only. Except as to acts done after notice of will, &c. Proviso.*
20. *If letters of administration be revoked, acts done by Administrator General prior to revocation shall be held valid, if they would have been valid under letters of administration lawfully granted.*
21. *Administrator General's letters of administration may be revoked on appearance of executor or next of kin who had not been personally cited, or received sufficient notice, but not after one year after the grant, except when a will or codicil shall be proved.*
22. *On revocation, costs may be ordered to Administrator General out of the assets.*
23. *If notice of claim be not given within one year after grant of administration to Administrator General, and prosecuted within one month from notice given, assets may be distributed.*

24. *Administration to be granted to Administrator General by his name of office, and to authorize him to act as the administrator of the estate; and all interests vested in him to vest on his death, &c., in his successor, and all office books to be transferred.*

25. *Administrator General to sue and be sued by his name of office, and suit not to abate by reason of his death, but successor not to be liable for costs incurred previously.*

26, 27. *Administrator General's commission, 3 per cent. in Bengal, and 5 per cent. in Madras and Bombay, to cover expenses of collecting and responsibility in distributing assets, and to be payable one-half on collection and one-half on distribution.*

28. *Government may reduce and raise again, but not beyond the rate of 5 per cent., the commission of Administrator General in Madras and Bombay.*

29. *Administrator General to defray expenses of his own establishment, &c.*

30. *No person other than Administrator General to charge commission or agency, unless specially bequeathed to him.*

31. *Administrator General to keep separate account books for each estate, such books to be open to inspection at office hours on payment of fees fixed by Government.*

32, 33. *Government may make and alter rules for safe custody of assets, for remittance of money, and generally for guidance of Administrator General, and publish the same in the official Gazette, and until such rules shall be made and published present rules to be in force.*

34. *Administrator General to file in Court and publish in Gazette half-yearly certain Schedules, and deliver copies thereof in triplicate to the Secretary of the Presidency.*

35—37. *Government to appoint Auditors with power to summon witnesses, call for books, &c., and examine schedules and accounts, and report thereon to Government.*

38. *Costs of preparing schedules to be defrayed by all the estates interested therein in proportions to be settled by the Auditors.*

39. *If accounts appear not correct, Auditors to report specially.*

40. *Government may refer such report to the Advocate General, who may then take summary proceedings in the Supreme Court.*

41. *Provides for costs of references.*

42. *Orders of Court to have effect as decretal orders.*

43, 44. *In certain cases Administrator General may grant certificate entitling the claimant to receive the sums or securities therein mentioned, if 3 months shall have elapsed since the death of deceased and Administrator General shall be satisfied that deceased's property is under Rs. 500, but Administrator General not bound to give certificate of title.*

45. *Such certificate with receipt annexed to be sufficient discharge to the payer, but not to protect person receiving from the suit by executor or other claimant.*

46, 47. *Administrator General not bound to take out administration where he grants certificate, and may charge fee at the rate of 3 per cent. for certificate.*

48. *False swearing under this Act to be deemed and punished as perjury.*

49. *Administrator General liable to fine and imprisonment if he trade or traffick, except in due management of estates in his charge.*

50. *Accumulation in the hands of Administrator General in Bombay to be transferred to the Accountant General and Sub-Treasurer whose receipt to be a full discharge to Administrator General.*

51. *Net proceeds of all estates in official charge of Administrator General at Madras or Bombay, which shall have been unclaimed for 15 years, to be paid to the Sub-Treasurer who shall grant receipt.*

52. *Subsequent claimant may recover for the principal money of his claims and mode of procedure.*

53. *Repeals Bombay Regulation XV, 1806, s. VI, and Madras Regulation IV, s. 5, 1854.*

54. *When British subjects shall die intestate leaving personal assets the Zillah Judge shall take charge and report to Administrator General.*

55. *Interpretation clause.*

56. *Repeals Acts VII, 1849, and II, 1850.*

57. *Administrator General not required to take proceedings to obtain administration to the estate of any person subject to the Articles of War, &c., unless authorized or required by Military Secretary, &c.*

58. *Act to commence from 1st March 1855.*

An Act to amend the law relating to the office and duties of Administrator General.

WHEREAS it is expedient to amend the law relating to the office and duties of Administrator General; It is enacted as follows :—

Designation
of Administrators
General.

I. In each of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, there shall be an Administrator General. The said Administrators General shall be called respectively the Administrator General of Bengal, the Administrator General of Madras, and the Administrator General of Bombay.

II. Such officers shall be appointed, and may be suspended or removed, by the authorities hereinafter mentioned respectively, that is to say ;

The Administrator General of Bengal, by the Governor General of India in Council.

The Administrator General of Madras, and the Administrator General of Bombay, by the Governments of those Presidencies respectively.

III. Any person now holding the office of Administrator General at any of the said Presidencies shall continue to hold the same, subject to the provisions of this Act.

IV. The Administrator General shall not be deemed in that capacity to be an officer of the Supreme Court.

V. All letters of administration, which, since the passing of Act No. II. of 1850, have been granted by the Supreme Court of Judicature at Fort St. George to the Ecclesiastical Registrar of that Court in virtue of his office, and all estates, effects and interests, books, papers and documents, now vested in or belonging to the said Ecclesiastical Registrar or under his control by virtue of any such letters of administration, are by this Act transferred to and vested in him as Administrator General of that Presidency, and such letters of administration shall have the same effect in all respects as to any act hereafter to be done or required to be done under this Act, as if they had been granted to him as Administrator General.

VI. The two offices of Ecclesiastical Registrar of the Supreme Court and Administrator General may be held by the present Administrator General at the Presidency of Fort St. George. With that exception, no person now holding the office of Administrator General, or hereafter to be appointed to such office in any of the said Presidencies, shall hold the office of Ecclesiastical Registrar, nor, without the express sanction of Government, any other office together with that of Administrator General. Provided that nothing in this Act shall prevent the present Administrator General of

Mode of appointment, suspension, and removal.

Present incumbents to continue to hold the office.

Administrator General not to be an officer of the Supreme Court.

Letters of administration to estates vested in the Ecclesiastical Registrar of the Madras Supreme Court transferred to him as A. G.

No A. G. to hold any other office without sanction—with two exceptions.

Bengal from holding the office of Receiver of the Supreme Court of Judicature now held by him.

A. G. to give security of one lakh of Rupees by his own bond &c., and for another lakh by deposit of Government securities, or by joint and several bonds of two or more sureties.

VII. Unless the Governor General of India in Council, or the Government with the sanction of the Governor General of India in Council, shall otherwise order, every Administrator General hereafter to be appointed shall give security to the East India Company for the due execution of his office, for one lakh of Rupees by his own bond and for another lakh of Rupees, or for separate sums amounting together to one lakh of Rupees, by the deposit of Government Securities or by the joint and several bond or bonds of two or more sureties to be approved by Government, or partly by such deposit and partly by such bond or bonds; provided that every Administrator General may, with the consent of Government, substitute either of the said two last mentioned kinds of security for another previously given for such last mentioned lakh or any part of it; and every Administrator General may, with the consent of Government, and shall from time to time when required by Government so to do, cause fresh sureties to be substituted for any of those previously bound so far as the security shall relate to the due execution of his office for the time then to come.*

Supreme Court not to require bond or other security.

VIII. No Administrator General shall be required by the Supreme Court to enter into any administration bond, or to give other security to the Court, on the grant of any letters of administration to him in virtue of his office.

A. G. entitled to letters of administration, unless granted to next of kin.

IX. Any letters of administration or letters *ad colligenda bona*, which shall hereafter be granted by the Supreme Court of Judicature at any of the said Presidencies, shall be granted to the Administrator General of the Presidency, unless they shall be granted to the next of kin of the deceased; and it is hereby declared that the Administrator General of the Presidency shall be deemed to have a right to letters

* Act XXVI, 1860, Sec. 3, provides for the appointment of an Officiating Administrator General, and enacts that he shall have the same powers and give the same security as the Administrator General.

of administration in preference to that of any person merely on the ground of his being a creditor or friend of the deceased.

X. The words "next of kin" shall be deemed throughout this Act to include a widower or widow of the deceased, or any other person who, by law and according to the practice of the Courts, would be entitled to letters of administration in preference to a creditor of the deceased. Provided that no Ecclesiastical Registrar or other officer of any of the said Courts shall, by reason of his office, be deemed entitled to any letters of administration or *ad colligenda bona*, or have any grant thereof made to him.

The words next of kin defined. Administration not to be granted to any officer of Court.

XI. If any person, not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not, and whether before or after the passing of this Act, and shall, if a British subject, have left assets exceeding the value of five hundred Rupees within any of the said Presidencies, or any of the provinces or places subject thereto, or shall, if not a British subject, have left personal assets exceeding five hundred Rupees within the local limits of the jurisdiction of the Supreme Court of Judicature at any of the said Presidencies, and no person shall within one month after his death have applied for probate of a will, or for any letters of administration of his estate, the Administrator General of the Presidency in which such assets shall be is hereby required, within a reasonable time after he shall have had notice of the death of such person, and of his having left such assets as aforesaid, to take such proceedings as may be necessary to obtain from the Supreme Court of Judicature at such Presidency letters of administration to the effects of such person, either generally or with a will annexed, as the case may require. Provided that assets, which any person may be entitled to collect, receive, or dispose of, by virtue of a certificate granted under Act XX. of 1841, shall not be deemed assets within the meaning of this Section.

If any Mahomedan or Hindoo shall die leaving assets beyond Rs. 500, and probate, &c., shall not have been applied for, A. G. shall take steps to obtain administration.

XII. Whenever any person, whether a Mahomedan or Hindoo or not, shall die leaving assets within the local limits of the jurisdiction of Her Majesty's Supreme Court of

Whenever any person shall die leaving assets within jurisdiction of the Su-

preme Court and in danger of misappropriation, the Court may order G. to apply for administration.

Judicature at any of the said Presidencies, it shall be lawful for the Court, upon the application of any person interested in such assets or in the due administration thereof, either as a creditor, next of kin, or otherwise, or upon the application of a friend of any infant who may be so interested, or upon the application of the Administrator General, if the applicant shall satisfy the Court that danger is to be apprehended of the misappropriation of such assets, unless letters of administration of the effects of such person are granted, to make an order directing the Administrator General to apply for letters of administration of the effects of such person.

Act XIX, 1841
S. 20 repealed.

XIII. Section XX. Act No. XIX. of 1841 is hereby repealed, except as to acts done, and except as to any case in which an order shall have been made before the commencement of this Act.

If any person dies leaving property within jurisdiction, and in danger of misappropriation before the right to succession can be ascertained, the Court may enjoin A. G. to collect and hold the same.

XIV. Whenever any person, whether a Mahomedan or Hindoo or not, shall have died leaving moveable or immoveable property within the local limits of the jurisdiction of any of Her Majesty's Supreme Courts of Judicature, and such Court shall be satisfied that danger is to be apprehended of the misappropriation or waste of such property, before it can be ascertained who may be legally entitled to the succession to such property, or whether the Administrator General is entitled to letters of administration to such deceased person, it shall be lawful for the Court to authorize and enjoin the Administrator General to collect and take possession of such property and to hold or deposit or invest the same according to the orders and directions of the Court, and in default of any such orders or directions, according to the provisions of this Act, so far as the same are applicable to such property; and the Administrator General shall be entitled to a commission of one per cent. upon the amount of all personal assets collected or received by him in pursuance of such order; and in case letters of administration of any such effects shall be afterwards granted to the Administrator General, the said commission of one per cent. shall be deemed

a part payment of the commission payable to the Administrator General under the letters of administration. Any order of Court made under the provisions of this Section shall entitle the Administrator General, to collect and to take possession of such property, and if necessary, to maintain an action for the recovery thereof.

XV. The Administrator General of the Presidency may be appointed an official Trustee under Act No. XVII. of 1843.

A. G. may be official Trustee.

XVI. If in the course of proceedings to obtain letters of administration under the provisions of Sec. XI. or Sec. XII. of this Act, any executor appointed by a will of the deceased shall appear according to the practice of the Court and prove the will and accept the office of executor, or, if any person shall appear according to such practice and make out his claim to letters of administration as next of kin of the deceased, and shall give such security as shall be required of him by law or by the practice of the Court, the Court shall grant probate of the will or letters of administration accordingly, and shall award to the Administrator General his costs of the proceedings so taken by him, to be paid out of the estate as part of the testamentary expenses thereof.

If any executor or next of kin appear during proceedings, probate or administration shall be granted to them, subject to A. G.'s costs.

XVII. If no person shall appear according to the practice of the Court, and entitle himself to probate of a will, or to a grant of letters of administration, as next of kin of the deceased, or if the person who shall entitle himself to a grant of administration shall neglect to give such security as shall be required of him by law or according to the practice of the Court, the Court shall grant letters of administration to the Administrator General. Provided that in the case of an application being made under Section XII. of this Act for letters of administration to the effects of a deceased Mahomedan or Hindoo, the Court may refuse to grant letters of administration to any person, if it be satisfied that such grant is unnecessary for the protection of the assets, and in such case the said Court shall make such order as to the costs of the application as it shall think just.

Otherwise administration to be granted to A. G.

A. G. not precluded from applying for administration within a month.

If administration be revoked, A. G.'s letters to be deemed voidable only. Exception.

XVIII. Nothing in this Act is intended to preclude the Administrator General from applying to the Court for letters of administration in any case within the period of one month from the death of the deceased.

XIX. If any letters of administration, which shall be granted to the Administrator General under the provisions of this Act, shall be revoked, or recalled, the same shall, so far as regards the Administrator General and all persons acting under his authority in pursuance thereof, be deemed to have been only voidable, except as to any act done by any such Administrator General or other person as aforesaid, after notice of a will or of any other fact which would render such letters of administration void. Provided that no notice of a will, or of any other fact which would render any such letters of administration void, shall affect the Administrator General or any person acting under his authority in pursuance of such letters of administration, unless within the period of one month from the time of giving such notice, proceedings be commenced to prove the will or to cause the letters of administration to be revoked, nor unless such proceedings be prosecuted without unreasonable delay.

Acts done by A. G. prior to revocation shall be held valid, if they would have been valid under letters lawfully granted.

XX. If any letters of administration which shall be granted under this Act shall be revoked upon the production and proof of a will, all payments made or act done by or under the authority of the Administrator General in pursuance of such letters of administration prior to the revocation thereof, which would have been valid under any letters of administration lawfully granted to him with such will annexed, shall be deemed valid notwithstanding such revocation.

A. G.'s letters of administration may be revoked on appearance of executor or next of kin.

XXI. If any executor or next of kin of the deceased, who shall not have been personally served with a citation or had notice thereof in time to appear in pursuance thereof, shall establish to the satisfaction of the Court a claim to probate of a will or to letters of administration in preference to the Administrator General, any letters of administration which shall be granted by virtue of this Act to the Administrator General, may be recalled and revoked, and probate may

be granted to such executor, or letters of administration granted to such other person as aforesaid. Provided that no letters of administration, which shall be granted to the Administrator General, shall be revoked or recalled for the cause aforesaid, except in cases in which a will or codicil of the deceased shall be proved, unless the application for that purpose shall be made within one year after the grant to the Administrator General, and the Court shall be satisfied that there has been no unreasonable delay in making the application, or in transmitting the authority under which the application shall be made.

XXII. If any letters of administration, which shall be granted to the Administrator General in pursuance of this Act, shall be revoked, the Court may order the costs of obtaining such letters of administration and the whole or any part of any commission which would otherwise have been payable under this Act, together with the costs of the Administrator General in any proceedings taken to obtain such revocation, to be paid to or retained by the Administrator General out of any assets belonging to the estate.

On revocation, costs may be ordered to A. G. out of the assets.

XXIII. Any payment or delivery of assets to any legatee, or to any person entitled in distribution, which shall be made by an Administrator General after the expiration of one year from the grant of the letters of administration under which such payment or delivery shall be made, shall be allowed to the Administrator General as against all creditors and other claimants against the estate, of whose debts or claims he shall not have had notice before making such payment or delivery. Provided that nothing herein contained shall exempt the person to whom such payment or delivery shall be made, from any liability to refund to which he would otherwise be liable, and provided also that no notice of any debt or claim shall affect the Administrator General unless proceedings to enforce the debt or claim be commenced within one month after the giving of such notice and be prosecuted without unreasonable delay.

If notice of claim be not given within one year after grant of administration to A. G. or prosecuted within one month from notice given, assets may be distributed.

XXIV. All letters of administration, which shall be granted to any Administrator General in virtue of his office,

Administration to be granted to A. G. by his name of office.

shall be granted to him by his name of office, and all letters of administration heretofore granted to the Ecclesiastical Registrar or Administrator General officially, or which shall be granted to any Administrator General in virtue of his office, shall authorize the Administrator General for the time being of the same Presidency to act as Administrator of the estate to which such letters of administration shall relate; and all estates, effects and interests, which, at the time of the death, resignation or removal from office of any Administrator General, shall be vested in him by virtue of such letters of administration shall, upon such resignation or removal, cease to be vested in him, and shall vest in his successor in office immediately upon his appointment thereto; and all books, papers and documents kept by such Administrator General by virtue of his office, shall be transferred to and vested in his successor in office.

A. G. to sue and be sued by his name of office. Suit not to abate by reason of his death. Successor not to be liable for costs incurred previously.

XXV. All actions, suits or other proceedings, which shall be commenced by or against any Administrator General in his representative character, may be brought by or against him by his name of office, and no suit, action or other proceedings already commenced, or which shall be commenced against any person as Administrator General, either alone or jointly with any other person, shall abate by reason of the death, resignation or removal from office of any such Administrator General, but the same may, by order of the Court, and upon such terms as to the service of notices or otherwise as the Court may direct, be continued against his successor immediately upon his appointment, in the same manner as if no such death, resignation, or removal had occurred. Provided that nothing hereinbefore contained shall render any such successor personally liable for any costs incurred prior to the order for continuing the action or suit against him.

Administrator General's commission.

XXVI. The Administrator General of each of the said Presidencies under any letters of administration which shall be granted to him in his official character, or under any probate which shall be granted to him of a will wherein he shall be named as executor by virtue of his office, and the

Administrator General of Madras under any letters of administration which are vested in him by Section V. of this Act, shall be entitled to receive a commission, at the following rates respectively ; *viz* :—

The Administrator General of Bengal at the rate of 3 per cent., and the Administrators General of Madras and Bombay respectively at the rate of 5 per cent., upon the amount or value of the assets which they shall respectively collect and distribute in due course of administration."

XXVII. The Commission to which the Administrator General of each of the said three Presidencies shall be entitled, is intended to cover not merely the expense and trouble of collecting the assets, but also his trouble and responsibility in distributing them in due course of administration. It is therefore enacted that one-half of such commission shall be payable to and retained by such Administrator General upon the collection of the assets, and the other half thereof shall be payable to the Administrator General who shall distribute any assets in the due course of administration and may be retained by him upon such distribution. The amount of the commission lawfully retained by an Administrator General upon the distribution of assets shall be deemed a distribution in the due course of administration within the meaning of this Act.

To cover expenses of collecting, and responsibility in distributing assets, and to be payable one-half on collection and one-half on distribution.

XXVIII. The Governments of the said Presidencies of Fort St. George and Bombay respectively, may, with the sanction of the Governor General of India in Council, from time to time order the aforesaid rate of commission hereby authorized to be received by the Administrators General of those Presidencies respectively to be reduced and again to be raised. Provided that, the commission so to be received shall not at any time exceed five per cent. of the assets collected, and that no person now holding the office of Administrator General of either of the said Presidencies of Fort St. George or Bombay shall, by any such order, be deprived of the right to receive and retain for his own use, a commission at the rate of three per cent. in respect of all assets collected and actually administered by him.

Government may reduce and raise again the commission of A. G. in Madras and Bombay.

A. G. to defray expenses of his own establishment, &c.

No other person to charge commission or agency, unless specially bequeathed.

XXIX. The Administrator General shall defray all the expenses of the establishment necessary for his office, and all other charges to which the said office shall be subject, except those for which express provision is made by this Act.

XXX. No person other than the Administrator General acting officially, shall receive or retain any commission or agency charges, for anything done as Executor or Administrator under any probate or letters of administration, or letters *ad colligenda bona*, which have been granted by the Supreme Court of Judicature at Fort William in Bengal since the passing of Act No. VII. of 1849, or by either of the said other Supreme Courts of Judicature since the passing of Act No. II. of 1850, or which shall hereafter be granted by either of the said Courts; but this enactment shall not prevent any executor or other person from having the benefit of any legacy bequeathed to him in his character of executor or by way of commission or otherwise.

A. G. to keep separate account books for each estate.

XXXI. The Administrator General of each of the said Presidencies shall enter into books, to be kept by him for that purpose, separate and distinct accounts of each estate, and of all such sums of money, bonds and other securities for money, goods, effects and things, as shall come to his hands, or to the hands of any person employed by him, or in trust for him, under this Act, and likewise of all payments made by him on account of such estate, and of all debts due by or to the same, specifying the dates of such receipts and payments respectively, which said books shall be kept in the Administrator General's Office, and shall be open for the inspection of all such persons, practitioners in the said Courts and others, as may have occasion to inspect the same, at office hours, paying only such reasonable fee as hath been or shall be, from time to time, fixed by the Government and published in the official *Gazette* of the Presidency to which the same may relate.

Government may make and alter rules for safe custody of assets, for remittance of money, and generally for guidance of A. G.

XXXII. The Government shall have power, from time to time, to make and alter any general rules and orders consistent with the provisions of this Act, for the safe custody of the assets and securities which shall come to the hands or

possession of the Administrator General, and for the remittance to the East India Company at their House in England of all sums of money which shall be payable or belong to persons resident in Europe, or in other cases where such remittances shall be required, and generally for the guidance and government of the Administrator General in the discharge of his duties; and may, by such rules and orders, amongst other things, direct what books, accounts and statements, in addition to those mentioned in this Act, shall be kept by the Administrator General, and in what form the same shall be kept and what entries the same shall contain, and where the same shall be kept, and where and how the assets and securities belonging to the estates to be administered by such Administrator General shall be kept and invested or deposited, pending the administration thereof, and how and at what rate or rates of exchange any remittances thereof shall be made. Unless any such rules shall be made and published, the rules now in force in each of the said Presidencies, so far as the same are not inconsistent with this Act, shall be of the same force and effect as if the same had been made and published under this Act.

XXXIII. Such orders shall be published in the official *Gazettes* of the several Presidencies, and it shall be the duty of the several Administrators General to obey and fulfil the same, and the same shall be a full authority and indemnity for all persons acting in pursuance thereof.

And publish
the same in the
official Gazette.

XXXIV. The Administrator General of each of the said Presidencies shall twice in every year—that is to say, on the first day of March, and on the tenth day of August, or on the first day on which the Supreme Court of Judicature at the Presidency shall be sitting after those days, or on such other days as the Government shall, by any rules or orders to be published as aforesaid, direct—exhibit and deliver in open Court, a true Schedule showing the gross amount of all sums of money received or paid by him on account of each estate in his charge, and the balances during the period of six months, ending severally on the thirty-first day of

A. G. to file in
Court and pub-
lish, half yearly
certain Sched-
ules, and deliv-
er copies thereof
to the Secretary
of the Presi-
dency.

December and thirtieth day of June next before the day of delivering such Schedule, and a true list of all bonds or other securities received on account of each of the said estates during the same period ; and also a true Schedule of all administrations, whereof the final balances shall have been paid over to the persons entitled to the same during the same period, specifying the amount of such balances, and the persons to whom paid; which Schedules shall be filed for record in such Supreme Court of Judicature, and shall, within fourteen days afterwards, be published in the official *Gazette* of the Presidency by the said Administrator General ; and copies thereof in triplicate shall be delivered by such Administrator General to the Secretary of the said Presidency ; and shall be sent by the Governor thereof to the Court of Directors of the East India Company, in order that the said Court of Directors may, if they think fit so to do, order the same to be deposited at the East India House, London, for public inspection, and may cause notices to be published in the *London Gazette* and other leading newspapers, that such Schedules are open to inspection there, or may make such other orders respecting the same as they may think fit.

Government
to appoint Audi-
tors.

XXXV. The Government shall from time to time, appoint an auditor or auditors to examine the accounts of the Administrator General at the times of the delivery of the said Schedules, and also at any other time when the Government shall think fit.

With power to
examine Sched-
ules and ac-
counts, and re-
port thereon to
Government,

XXXVI. The Auditor or Auditors shall examine the Schedules and accounts, and report to the Government whether they contain a full and true account of every thing which ought to be inserted therein, and whether the books which by this Act are, or which, by any such general rules and orders as aforesaid, shall be directed to be kept by the Administrator General, have been duly and regularly kept, and whether the assets and securities have been duly kept and invested and deposited in the manner prescribed by this Act, or which shall be prescribed by any such rules and orders to be made as aforesaid.

XXXVII. Every Auditor shall have power to summon as well the Administrator General as any other person or persons whose presence he may think necessary, to attend him from time to time; and to examine the Administrator General, or other party or parties, if he shall think fit, on oath or solemn affirmation, to be by him administered; and to call for all books, papers, vouchers and documents which shall * appear to him to be necessary for the purposes of the said reference: and if the Administrator General or other person or persons when summoned shall refuse, or, without reasonable cause, neglect to attend or to produce any book, paper, voucher or document required, or shall attend and refuse to be sworn or make a solemn affirmation, when by law an affirmation may be substituted for an oath, or shall refuse to be examined, the Auditor or Auditors shall certify such neglect or refusal in writing to the Supreme Court of Judicature at the Presidency; and every person so refusing or neglecting shall thereupon be punishable, in like manner as if such refusal or neglect had been in contempt of the said Supreme Court.

and to summon
witnesses, call
for books, &c.

XXXVIII. The costs and expenses of preparing and publishing the said Schedules and copies thereof, and of every such reference and examination as aforesaid, shall be defrayed by all the estates to which such Schedules or accounts shall relate, which costs and expenses, and the portion thereof to be contributed by each of the said estates, shall be ascertained and settled by the Auditor or Auditors, subject to the approval of the Government, and shall be paid out of the said estates accordingly by the Administrator General.

Costs of pre-
paring Schedules to be de-
frayed by all the
estates entered
therein rateably.

XXXIX. If upon any such reference and examination, the Auditor or Auditors shall see reason to believe that the said Schedules do not contain a true and correct account of the matters therein contained, or which ought to be therein contained, or that the assets have not been duly kept and invested or deposited in the manner directed by this Act, or which shall be directed by any such rules and orders as aforesaid, or that the Administrator General has failed to comply with the provi-

Auditors to re-
port specially,
if accounts ap-
pear not correct.

sions and directions of this Act, or of any such rules and orders, he or they shall report accordingly to the Government.

Government
may refer such
report to the
Advocate Gene-
ral.

XL. The Government may refer every such report as last aforesaid to the consideration of the Advocate General for the Presidency, who shall thereupon, if he shall think fit, proceed summarily against the defaulter or his personal representative in the Supreme Court of Judicature in the Presidency, by petition for an account, or to compel obedience to this Act or to such rules and orders as aforesaid, or otherwise as he may think fit, in respect of all or any of the estates then or formerly under the administration of such defaulter; and the said Advocate General shall have power to exhibit interrogatories to the said Administrator General, or other person or persons, defendants; who shall be bound to answer the same as fully as if the same had been contained in a bill filed for the like purpose; and the Court shall have power upon any such petition, to compel the attendance in Court of the defendant or defendants, and any witnesses who may be thought necessary, and to examine them orally or otherwise as the said Court shall think fit, and to make and enforce such order or orders as the Court shall think just.

Costs of refer-
ence.

XLI. The costs, including those of the Advocate General, and of the reference to him, if the same shall be directed by the Court to be paid, shall be defrayed either by the defendant or defendants or out of the estates rateably as the said Court shall direct; and whenever any costs shall be recovered from the defendant or defendants, the same shall be repaid to the estates by which the same shall have been in the first instance contributed, and the Court shall have power to order the Administrator General, or other person or persons, defendants, to receive his or her costs out of the said estates, if it shall think fit.

Orders of
Court to have ef-
fect as decretal
orders.

XLII. Any orders which shall be made by any of the said Supreme Courts shall have the same effect, and be executed in the same manner as decretal orders.

XLIII. Whenever any person, not being a Mahomedan or Hindoo, shall have died, whether within any of the said Presidencies or not, and whether before the passing of this Act, and shall, if a British subject, have left personal assets within any of the said Presidencies or any of the provinces or places subject thereto, or shall, if not a British subject, have left personal assets within the local limits of the jurisdiction of the Supreme Court of Judicature⁹ at any of the said Presidencies, and letters of administration of his effects shall not be taken out for three months after his death, and the Administrator General of such Presidency shall be satisfied that such effects do not exceed in the whole five hundred Rupees, he may, if he shall think fit at any time before administration of such effects shall be granted, grant to any person claiming to be entitled to a principal share of the effects of the deceased, certificates under his hand, entitling the claimant to receive the sums or securities for money therein severally mentioned, belonging to the effects of the deceased, to the value of any sum not exceeding in the whole five hundred rupees.*

A. G. may grant certificate entitling the claimant to receive the sums or securities therein mentioned, if 3 months shall have elapsed since the death of deceased.

XLIV. The Administrator General shall not be bound to grant any such certificate, unless he shall be satisfied of the title of the claimant and of the value of the effects of the deceased, either by the oath, affidavit or solemn affirmation of the claimant (which oath, affidavit or affirmation the Administrator General is hereby authorized to administer or take) or by such other evidence as he shall require.

But not bound to give certificate of title.

XLV. Any such certificate, with a receipt annexed under the hand of the person to whom the certificate shall be granted, shall be a full discharge for payment or delivery to him or her of the money or security for money therein mentioned, to the person paying or delivering the same: but nothing in this Act shall preclude any executor or administrator of the deceased from recovering from the person receiving the same, the amount remaining in his hands, after

Such certificate with receipt annexed to be sufficient discharge to the payer, but not to protect person receiving.

Further provisions on this subject are made by Act XXVI. 1860, Sec. 2.

deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration; and any creditor or claimant against the estate of the deceased shall be at liberty to recover his debt or claim out of the assets received by such person, and remaining in his hands unadministered, in the same manner and to the same extent as if such person had obtained letters of administration to the estate of the deceased.

A. G. not bound to take out administration where he grants certificate.

XLVI. The Administrator General shall not be bound to take out letters of administration to the estate of any deceased person on account of the effects in respect of which he shall grant any such certificate, but he may do so if he shall discover any fraud or misrepresentation made to him, or that the value of the estate exceeded five hundred rupees.

A. G. may charge fee at the rate of 3 per cent.

XLVII. For every such certificate the Administrator General shall be entitled to charge a fee calculated after the rate of three rupees in the hundred on the amount mentioned in the certificate.

False swearing under this Act to be deemed perjury.

XLVIII. Every person who, having been sworn, or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any examination authorized by this Act, shall be deemed guilty of perjury, and, if convicted, shall be liable to be punished accordingly.

A. G. liable to fine and imprisonment if he trade or traffic, except in due course of administration.

XLIX. It is hereby declared to be a misdemeanour, punishable by fine and imprisonment, for any Administrator General to trade or traffic for his own benefit, or for the benefit of any other person or persons whomsoever, unless so far as shall appear to him to be expedient for the due management of the estates of which letters of administration shall be granted to him, and for the sole benefit of the several persons entitled to the proceeds of such estates respectively; but this exception is not to be construed to alter the civil liabilities of the Administrator General as trustee of such estates.

Accumulations in Bombay to be transferred to the Accountant

L. And whereas it appears from the books and accounts of the Administrator General of Bombay, that, on the thirtieth

day of June 1851, there were in his charge Government Securities and cash, arising from accumulations of interest on estates heretofore administered by, or in the charge of the Ecclesiastical Registrar of the Supreme Court of Judicature at the Presidency, over and above the amount of interest heretofore allowed on the administration of such estates, it is further enacted as follows :—The Administrator General of Bombay shall forthwith transfer and pay the said Government Securities, and cash balance, and any other Government Securities and cash which, at the time of the passing of this Act, shall or may be in his charge, or under his control in respect of such accumulations of interest, or any additions thereto, to the Accountant General and Sub-Treasurer of Bombay, to be carried to the account and credit of the East India Company, for the general purposes of Government; and the receipt of the Accountant and of the Sub-Treasurer of Bombay for any monies or securities so paid or transferred to them under the provisions of this Act, shall be a full indemnity and discharge to the Ecclesiastical Registrar and Administrator General for any such payment or transfer.

General and Sub-Treasurer whose receipt to be full discharge.

LI. The net proceeds of all estates in the official charge of the Administrator General of either of the Presidencies of Fort St. George or Bombay, and which now appear, or shall hereafter appear, from the official books and accounts of the Ecclesiastical Registrar and of the Administrator General of either of those Presidencies, or from the official books and accounts of either of those officers, to have been in official custody for a period of fifteen years or upwards, without any claim thereto having been made and allowed, shall be transferred and paid to the Sub-Treasurer of the East India Company at Fort St. George and Bombay respectively, and be carried to the account and credit of the East India Company, for the general purposes of Government; and the receipt of the said Sub-Treasurer and Accountant General shall be a full indemnity and discharge to the said Administrator General for any such payment or transfer. Provided that this Act shall not authorize any transfer or payment of any such

Net proceeds at Madras or Bombay unclaimed for 15 years, to be paid to the Sub-Treasurer who shall grant receipt.

proceeds as aforesaid, pending any suit already instituted, or which shall be hereafter instituted, in respect thereof.

Subsequent claimant may recover for the principal money of his claims. Mode of procedure.

LII. If any claim shall be hereafter made to any part of the securities, monies, or proceeds which shall be carried to the account or credit of the East India Company under the provisions of this Act, and if such claim shall be established to the satisfaction of the Administrator General and Accountant General to the Government of Fort St. George and Bombay, for the time being, respectively, the said Accountant General shall direct the Sub-Treasurer of the Presidency to pay, and the said Sub-Treasurer shall thereupon pay, out of the monies of the East India Company in his custody, to the claimant, the amount of the principal so carried to the credit and account of the said East India Company, or so much thereof as shall appear to be due to the claimant. If the claim shall not be established to the satisfaction of the said Administrator General and Accountant General, the claimant may apply by petition to the Supreme Court at the Presidency against the East India Company and Administrator General of the Presidency for the time being, and after taking evidence, either orally or on affidavit, in a summary way, as the said Court shall think fit, the said Court shall make such order on the petition for the payment of such portion of the said principal sum as justice shall require, which order shall be binding on all parties to the suit.

Repeals Bombay Regulation XV. 1806, S. 5 VI. and Madras Regulation IV. S. 5. 1854.

LIII. Section VI. Regulation XV. of 1806 of the Bengal Code, and Section V. Regulation IV. of 1809 of the Madras Code are hereby repealed.

When British subjects shall die intestate leaving personal assets, the Zillah Judge shall take charge and report to A. G.

LIV. Whenever any British subject shall die leaving personal assets within the limits of the jurisdiction of a Zillah Judge, and no will shall be found among the effects of the deceased, it shall be the duty of the Zillah Judge to report the circumstance without delay to the Administrator General of the Presidency, retaining the property under his charge until letters of administration shall have been obtained by the Administrator General or by some other person from the Supreme Court of Judicature, when the property shall be

delivered over to the person obtaining such letters of administration; or, in the event of a will being discovered, to the person who may obtain probate of the will.

LV. In the construction of this Act, the word "Government" shall be deemed to mean the Governor General of India in Council, so far as the Act relates to the Presidency of Fort William in Bengal or any place subordinate thereto, and the person or persons for the time being administering the Executive Government of the Presidency, so far as the Act relates to the Presidencies of Fort St. George and Bombay respectively; the words "letters of administration" shall include any letters of administration, whether general or limited or with a will annexed, and letters *ad colligenda bona*. Words in the masculine gender shall include the feminine; and words in the singular number shall include the plural, and *vice versa*; unless where such construction would be inconsistent with or repugnant to the context.

Interpretation
clause.

LVI. Act VII. of 1849 and II. of 1850 are hereby repealed as to all letters of administration which shall hereafter be applied for or granted.

VII. - 1849, and
II, 1850, Acts

* LVII. Nothing in this Act is intended to require the Administrator General to take proceedings to obtain letters of administration to the estate or effects of any officer or soldier or other person subject to any Articles of War, or to the estate or effects of any officer, seaman or other person dying in the Marine Service of the East India Company, called the Indian Navy, unless when the Administrator General shall be duly authorized or required so to do by the Military Secretary; or other officer having similar powers with regard to the estate or effects of any officer, seaman or other person dying in the Indian Navy; nor is any thing in this Act contained intended to interfere with or alter the provisions of any Act of Parliament for regulating the payment of regimental debts and the distribution of the effects of officers and soldiers dying in the Service of the East India

A. G. not to
take administration
to the estate
of any person
subject to the
Articles of War,
unless authorised
by Military
Secretary, &c.

Company, or of any Articles of War, or of any Acts of Parliament relating to the Indian Navy.

LVIII. This Act shall commence and take effect from the 1st day of March 1855.

ACT NO. IX. OF 1855.

Repealed by Act X. 1861.

**MADRAS AND
BOMBAY.**

ACT NO. X. OF 1855.

1. *Rescinds former Regulations, &c.*

2—8. *Repealed by Act X., 1861, Section 1, Schedule.*

9. *In what case a witness, not being a party to the suit in which he summoned, is bound to produce his title-deeds.*

10. *Persons not obeying summons, &c. liable for damages in a civil action.*

11—19. *Repealed by Act X., 1861, Section 1, Schedule.*

An Act to amend the Law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay, and to amend the provisions of Section XL. Act XIX of 1853.

WHEREAS it is expedient to amend the Law relating to the attendance and examination of witnesses in the Civil Courts of the East India Company in the Presidencies of Fort St. George and Bombay, and to amend the provisions of Section XL. Act XIX. of 1853; It is enacted as follows:—

I. Section XXII. Regulation VII. of 1809 and Section VIII. Regulation XII. of 1809 of the Madras Code, and Section XL. Act XIX. of 1853, are hereby repealed.

II.—VIII. *Repealed by Act X, 1861, Section 1, Schedule.*

IX. A witness not a party to the suit or proceeding in which he is summoned shall not be bound to produce his own title-deeds, unless he shall have agreed in writing with the party requiring the production thereof, or with some person through whom he claims to produce such deeds.

X. Any person, whether a party to the suit or not, to whom a summons to attend and give evidence or produce a

Repeal of former Regulations, &c.

In what case a witness, not being a party to the suit in which he is summoned, is bound to produce his title-deeds.

Person not obeying summons, &c. liable

document shall be personally delivered, and who shall, without lawful excuse, neglect or refuse to obey such summons, or who shall be proved to have absconded, or kept out of the way to avoid being served with such summons, and any person who, being in Court, and upon being required by the Court to give evidence or produce a document in his possession, shall, without lawful excuse, refuse to give evidence or sign his deposition, or to produce a document in his possession, shall, in addition to any proceedings to which he would otherwise be subject, be liable to the party at whose request the summons shall have been issued, or at whose instance he shall be required to give evidence or produce the document, for all damages which he may sustain in consequence of such neglect or refusal, or of such absconding or keeping out of the way as aforesaid to be recovered in a civil action.

for damages in
a civil action.

XI.—XIX. Repealed by Act X., 1861, Section 1, Schedule.

ACT No. XI. OF 1855.

**SUPREME
COURTS.**

1. *No person to be chargeable with rent bonâ fide paid to a holder under defective title.*
2. *Value of improvements made by bonâ fide holders under defective titles secured to them. Value how to be estimated.*
3. *Act to apply only to cases governed by English Law.*

An Act relating to mesne profits and to improvements made by holders under defective titles in cases to which the English law is applicable.

WHEREAS it is expedient, in cases to which the English law is applicable, to limit the liability for mesne profits, and to secure to *bonâ fide* holders under defective titles the value of improvements made by them; It is enacted as follows:—

I. No person shall be chargeable with any rents or profits of any immoveable property which he has *bona fide* paid over to any person of whom he *bonâ fide* held the same, notwithstanding it may afterwards appear that the person to whom such payment was made had no right to receive such rents or profits.

II. If any person shall erect any building or make an improvement upon any lands held by him *bond fide* in the belief that he had an estate in fee simple, or other absolute estate, and such person, his heirs, assigns, or his or their under-tenants, be evicted from such lands by any person having a better title, the person who erected the building or made the improvement, his heirs or assigns, shall be entitled either to have the value of the building or improvement so erected or made during such holding and in such belief, estimated and paid or secured to him or them, or, at the option of the person causing the eviction, to purchase the interest of such person in the lands at the value thereof, irrespective of the value of such building or improvement. Provided, that the amount to be paid or secured in respect of such building or improvement shall be the estimated value of the same at the time of such eviction.

III. Nothing in this Act contained shall extend to any case to which the English Law is not applicable.

**SUPREME
COURTS.**

ACT No. XII. OF 1855.

1. *Executors may sue and be sued in certain cases for wrongs committed in the life-time of a deceased person.*
2. *Death of either party not to abate suit.*

An Act to enable Executors, Administrators or Representatives to sue and to be sued for certain wrongs.

WHEREAS it is expedient to enable Executors, Administrators or Representatives in certain cases to sue and be sued in respect of certain wrongs which, according to the present law, do not survive to or against such Executors, Administrators or Representatives; It is enacted as follows:—

I. An action may be maintained by the Executors, Administrators or Representatives of any person deceased, for any wrong committed in the life-time of such person, which has occasioned pecuniary loss to his estate, for which wrong an action might have been maintained by such person, so as such wrong shall have been committed within one year

before his death, and provided such action shall be brought within one year after the death of such person; and the damages, when recovered, shall be part of the personal estate of such person; and further, an action may be maintained against the Executors or Administrators or Heirs or Representatives of any person deceased for any wrong committed by him in his life-time for which he would have been subject to an action, so as such wrong shall have been committed within one year before such person's death, and so as such action shall be commenced within two years after the committing of the wrong: and the damages to be recovered in such action shall, if recovered against an Executor or Administrator bound to administer according to the English Law, be payable in like order of administration as the simple contract debts of such person.

II. No action commenced under the provisions of this Act shall abate by reason of the death of either party, but the same may be continued by or against the Executors, Administrators or Representatives of the party deceased. Provided that, in any case in which any such action shall be continued against the Executors, Administrators or Representatives of a deceased party, such Executors, Administrators or Representatives may set up a want of assets as a defence to the action, either wholly or in part, in the same manner as if the action had been originally commenced against them.

ACT No. XIII. OF 1855.

GENERAL.

1. *Action for compensation to the family of a person for loss occasioned to it by his death by actionable wrong.*
2. *Not more than one action to be brought: to be commenced within 12 months. Claim for loss to the Estate may be added.*
3. *Plaintiff shall deliver particulars, &c.*
4. *Construction of Act.*

An Act to provide compensation to families for loss occasioned by the death of a person caused by actionable wrong.

WHEREAS no action or suit is now maintainable in any Court against a person, who, by his wrongful act, neglect or

default, may have caused the death of another person, and it is often times right and expedient that the wrong-doer in such case should be answerable in damages for the injury so caused by him ; It is enacted as follows :—

Action for compensation to the family of deceased for loss occasioned to it by his death by actionable wrong

I. Whenever the death of a person shall be caused by wrongful act, neglect or default, and the act, neglect or default is such as would (if death had not ensued) have entitled the party injured to maintain an action and recover damages in respect thereof, the party who would have been liable if death had not ensued, shall be liable to an action or suit for damages, notwithstanding the death of the person injured, and although the death shall have been caused under such circumstances as amount in law to felony or other crime. And it is enacted further, that every such action or suit shall be for the benefit of the wife, husband, parent and child, if any, of the person whose death shall have been so caused, and shall be brought by and in the name of the Executor, Administrator or Representative of the person deceased ; and in every such action, the Court may give such damages as it may think proportioned to the loss resulting from such death to the parties respectively, for whom and for whose benefit such action shall be brought, and the amount so recovered, after deducting all costs and expenses, including the cost not recovered from the defendant, shall be divided amongst the before-mentioned parties, or any of them, in such shares as the Court by its judgment or decree shall direct.

Not more than one action to be brought: to be commenced within 12 months. Claim for loss to the estate may be added

II. Provided always, that not more than one action or suit shall be brought for, and in respect of the same subject matter of complaint, and that every such action shall be brought within twelve calendar months after the death of such deceased person ; provided that, in any such action or suit, the Executor, Administrator or Representative of the deceased may insert a claim for, and recover any pecuniary loss to the Estate of the deceased occasioned by such wrongful act, neglect or default, which sum, when recovered, shall be deemed part of the assets of the Estate of the deceased.

III. The plaint in any such action or suit shall give a full particular of the person or persons for whom, or on whose behalf, such action or suit shall be brought, and of the nature of the claim in respect of which damages shall be sought to be recovered.

Plaintiff to de-
liver particulars,
&c.

IV. The following words and expressions are intended to have the meanings hereby assigned to them respectively, so far as such meanings are not excluded by the context or by the nature of the subject matter, that is to say, words denoting the singular number are to be understood to apply also to a plurality of persons or things, and words denoting the masculine gender are to be understood to apply also to persons of the feminine gender ; and the word " person " shall apply to bodies politic and corporate ; and the word " parent " shall include father and mother, and grand-father and grand-mother ; and the word " child " shall include son and daughter, and grand-son and grand-daughter and step-son and step-daughter.

Interpretation
Clause.

ACT No. XIV. OF 1855.

MADRAS.

1. *Debt, &c., not recoverable under Clause 3 of Section XXI. of Regulation VII. 1832 of Madras Code, unless persons suing have been registered as a Military Bazar-man.*

An Act for the better regulation of Military Bazars in the Presidency of Fort Saint George.

WHEREAS it is desirable to extend the provisions of Act XII. of 1842 to persons suing for the recovery of debts before Superintendents of Police, under the Provisions of Regulation VII. of 1832 of the Madras Code ; It is enacted as follows :—

I. No person residing within the limits of any Military Cantonment, or carrying on any trade or business therein, shall be allowed to recover in the Court of the Officer in charge of the Police, under the provisions of Clause 3 Section XXI. of Regulation VII. of 1832 of the Madras Code, any debt contracted in the way of trade, or for the loan of money, within any such Cantonment, by any person subject

to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting thereof, have been registered as a Military Bazar-man within any such Cantonment.

ACT No. XV. OF 1855.

Repealed by Act XVII, 1862.

BOMBAY.

ACT No. XVI. OF 1855.

1. *Regulation repealed.*
2. *Badges worn by persons not servants of Government to bear the employer's name, &c.*

An Act to amend the law in force in the Presidency of Bombay
concerning the use of Badges.

WHEREAS it is expedient to amend the provision of the Bombay Code which prohibits the use of badges by persons not in the employ of Government ; It is enacted as follows :—

I. Section VI. Chapter 3, Regulation XXIII. of 1827 of the Bombay Code is repealed.

II. No person, not being a servant of Government, shall wear any belt or badge intended to resemble any belt or badge worn by servants of Government, or any badge not bearing, in the characters of a language current in the district in which it is worn, the name or designation of the party by whom the wearer is employed.

III. Repealed by Act XVII, 1862.

THE STRAITS.

ACT No. XVII. OF 1855.

1. *Acts repealed.*
2. *Pice legal tender for Dollars.*
3. *Proviso.*

An Act to improve the law relating to the Copper Currency in the Straits.

WHEREAS the Company's Rupee is by Act XVII. of 1835 a legal tender in satisfaction of all engagements in the Settlement of Prince of Wales' Island, Singapore, and

Malacca, but no copper coin, except the half pice issued under Act XI. of 1854, is now by law legal tender for fractions of a Rupee in that Settlement; and it is expedient to remedy this defect in the law; and whereas, besides the Rupee, the Dollar is by custom current in the said Settlement; and it is therefore expedient to provide that the copper currency which will be legal tender in the said Settlement for fractions of a Rupee shall also be legal tender in the said Settlement for fractions of a Dollar; It is enacted as follows:—

I. Sections I, II, and V, of Act VI. of 1847 are hereby repealed, in so far as they relate to copper pice, double pice, and pies coined in accordance with Act XXII. of 1844, or Act XXI. of 1835; but in so far as they relate to all other copper coins, the said Sections shall remain in full force. And the provisions of Sections I, II, and IV, of Act XXII. of 1844, so far as they are now in force, are hereby extended to the Settlement of Prince of Wales' Island, Singapore, and Malacca, where they shall have effect, any thing in Act VI. of 1847 to the contrary notwithstanding.

II. From and after the first day of July 1855, within the said Settlement, a pice coined according to Act XXII. of 1844 shall be legal tender for one one-hundred and fortieth part of a Dollar, and a double pice so coined shall be legal tender for one-seventieth part of a Dollar; and a pic so coined shall be legal tender for one four hundred and twentieth part of a Dollar; also a half-pice coined according to Act XI. of 1854 shall be legal tender for one two hundred and eightieth part of a Dollar.

III. Provided always, and it is hereby enacted, that no copper coins within the said Settlement shall be legal tender except for fractions of a Rupee, or fractions of a Dollar.

ACT No. XVIII. OF 1855.

1. *Executive Government of a Presidency declared to have power to grant pardons for offences committed therein, or to remit punishment awarded by Supreme Court of Judicature or any other Court, &c., in respect of such offences.*

**SUPREME
COURTS.**

2. *Act not to affect the provisions of the Statutes empowering the Governor General in Council to limit the authority of Lieutenant-Governors, &c. The power of granting pardons, &c., may be exercised by the Governor General in Council, so far as it is excepted from the authority of Lieutenant-Governors, &c.*

3. *Act not to interfere with the prerogative of the Crown to grant pardons.*

An Act to remove doubts relating to the power to grant Pardons and Reprieves and Remissions of punishments in India.

WHEREAS doubts have arisen as to the power of the several Executive Governments in India to remit punishments awarded by Her Majesty's Supreme Courts of Judicature, and it is desirable that all doubts respecting the power to pardon or reprieve or grant remissions of punishment should be removed ; It is declared and enacted as follows :—(The sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of an Act passed in the 17th year of the reign of Her said Majesty, entitled “ An Act to provide for the Government of India.”)

I. The person or persons for the time being authorized to administer the Supreme Executive Government in any Presidency or place within the territories in the possession and under the Government of the East India Company have power to grant pardons and reprieves in respect of any crime or offence committed within such Presidency or place, or to remit the whole or any part of the punishment awarded in respect of any such crime or offence, whether the same be awarded by any of Her Majesty's Supreme Courts of Judicature or by any other Court or officer exercising jurisdiction within the said territories.

II. Nothing in this Act shall be construed to interfere with the provisions contained in the Statutes of the Imperial Parliament 16 and 17 Vic. Cap. 95 and 17 and 18 Vic. Cap. 77, or any other Statute, which empower the Governor General of India in Council, with the sanction therein mentioned, to limit the extent of the authority of the Lieutenant-Governors and other persons therein named ; and in every

such case the aforesaid power of granting pardons and reprieves and remissions of punishment, in case and so far as the same may be excepted from the authority of the said Lieutenant-Governors or other persons, may be exercised by the Governor General of India in Council.

III. Nothing in this Act shall be construed to interfere with the undoubted right of Her Majesty to grant pardons or reprieves or remissions of punishment in any of the cases above-mentioned.

ACT No. XIX. OF 1855.

MADRAS.

1. *Madras Regulation VI. 1816, S. 7, Clause 3, S. 12 Clauses 1, 2; and Sections 29, 40, repealed.*
2. *Section 11, Clause 1, of same Regulation modified.**
3. *District Moonsiffs may, when they think fit, require security from defendants.*
4. *And may exercise all powers of subordinate Zillah Courts for enforcing attendance of witnesses.*
5. *Repealed.*
6. *Regulation XV. 1816, Section 10, Clauses 2, 3, 4 extended to Moonsiffs' Courts.*
7. *Also part of Clause 2, Section 6, of same Regulation, but Moonsiffs not to grant Review of Judgment without permission of Zillah Judge.*
8. *All orders of Moonsiffs under this Act open to appeal.*

An Act to amend the Law relating to District Moonsiffs in the Presidency of Fort St. George.

WHEREAS it is expedient, for the better administration of justice, to amend the law relating to District Moonsiffs in the Presidency of Fort St. George; It is enacted as follows:—

I. Clause 3rd, Section VII; Clause 1st, Section XII; and so much of Clause 2nd of the same Section as prohibits District Moonsiffs from trying suits in which persons employed in their Cutcherries may be parties; Section XXIX; and Section XL, Regulation VI, of 1816 of the Madras Code—are repealed.

*Reg. VI, 1816,
S. 7, Cl. 3, S. 12;
Cl. 2; and S. 29,
40, repealed.*

Section 11, Cl.
1. of same Regu-
lation modified.

II. Clause 1st, Section XI of the said Regulation is modified as follows :—Any suit cognizable by a District Moonsiff's Court may be heard and determined by any such Court to which it may be preferred, when the cause of action shall have arisen, or the defendant, at the time of the commencement of the suit, shall reside, as a fixed inhabitant, within the local limits of the jurisdiction of the Court ; provided that, if an action be brought against several defendants, of whom one shall be resident, as a fixed inhabitant, within the local limits of the jurisdiction of the Court, within the jurisdiction of which the cause of action shall have arisen, the action shall be brought in that Court.

District Moon-
siffs may require
security from
defendants.

III. Section XXII of the said Regulation is modified as follows :—District Moonsiffs are empowered, when they think fit, to require security from defendants in preference to attaching their property under the circumstances described in the aforesaid Section, and to release property attached, on sufficient security being tendered by defendants.

And may exer-
cise all powers
of subordinate
Zillah Courts of
enforcing attend-
ance of wit-
nesses.

IV. All powers, which may be lawfully exercised by subordinate Zillah Courts for enforcing the attendance of witnesses summoned to appear in such Courts, may be exercised by District Moonsiffs for enforcing the attendance of witnesses summoned to appear in their Courts.

V. Repealed by Act XVII, 1862.

Reg. XV, 1816,
Sec. 10, Cl. 2, 4
extended to
Moonsiff's Courts.

VI. Clauses 2nd, 3rd, and 4th, Section X, Regulation XV of 1816 of the said Code, shall be applicable to the Courts of District Moonsiffs.

Moonsiffs not
to grant Review
of Judgment
without permis-
sion of Zillah
Judge.

VII. Clause 2, Section VI, Regulation XV of 1816 of the said Code, relating to reviews of judgment, shall be applicable to the Courts of District Moonsiffs, except that the petition for a review need not be written upon stamped paper. Provided that, if a District Moonsiff shall be of opinion that a review of his judgment ought to be granted, he shall report the case to the Judge of the Zillah, who may permit such review, under the same rules as are prescribed in

regard to similar applications to the Court of Sudder Adawlut.

VIII. All orders which may be passed by a District Moonsiff under this Act, are open to appeal to the Zillah Judge, if preferred within the time fixed for regular appeals.

All orders of District Moonsiffs under this Act open to appeal.

ACT No. XX. OF 1855.

Repealed by Act XXVIII, 1860.

ACT No. XXI. OF 1855.*

MADRAS.

1. *General superintendence and control of the education of every male Minor under the Court of Wards, vested in the Collectors of Revenue.*
2. *Collectors may cause male Minor Wards to be educated at any school or college.*
3. *Or in certain cases by a private Tutor.*
4. *Charges and expenses to be paid out of profits of the Ward's estate.*
5. *Court of Wards may remove any Guardian disobeying orders of Collector.*
6. *Guardian removed to continue liable to account. New Guardian to have same powers and responsibilities as his predecessor.*
7. *Custody of the Minor's person to be vested in the Guardian, or in the absence of any Guardian, with Collector.*
8. *Foregoing provisions applicable also to younger brothers of Wards.*
9. *Penalty for abetting the marriage of Wards without leave of Collector, Rs. 2,000, or imprisonment of either kind for 6 months.*
10. *Proceedings of Collector to be subject to revision by an appeal to Court of Wards.*

An Act for making better provision for education of Male Minors and the marriage of Male and Female Minors, subject to the superintendence of the Court of Wards in the Presidency of Fort St. George.

WHEREAS the existing laws are found insufficient to insure the proper education of Male Minors subject to the superintendence of the Courts of Wards, and it is expedient

* As to Minors not subject to the superintendence of the Court of Wards, in the Presidency of Madras. See Act No. XIV., 1853.

to make further and better provision for the education of such persons and their younger brothers, and for the exercise of a control over the marriages of all Minors under the superintendence of the Court of Wards; It is enacted as follows:—

General control of the education of Male Minors under the Court of Wards, vested in the Collectors of Revenue.

I. The general superintendence and control of the education of every Male Minor, whose property has been or shall be brought under the management of the Court of Wards, in and for any part of the Presidency of Fort St. George by virtue of any Act or Regulation, which now is, or hereafter shall be, in force, is hereby vested in the Collector of Revenue, acting under the said Court of Wards, in the Zillah or district wherein such Minor's estate is situate; or, if such Minor is possessed of immoveable property in different districts in such one of the Collectors of Revenue of such districts as the said Court of Wards shall select.

Collectors may cause Male Minor Wards to be educated at any School or College.

II. It shall be lawful for every Collector of Revenue, in whom the superintendence of the education of any Minor is vested by this Act, to direct that such Minor shall reside, either with or without his guardian, at the Sudder Station of the district, or at any other place within the said Presidency, and shall attend for the purposes of education such school or college as to the said Collector may seem expedient; and to make such provision as may be necessary for the proper care and suitable maintenance of the said Minor whilst attending such school or college.

Or in certain cases by a private Tutor.

III. If it shall appear to the Collector inexpedient to place any such Minor at a school or college, he shall cause such Minor to be educated by a private tutor, properly qualified, either at the family residence of such Minor, or at the Sudder Station, or elsewhere within the said Presidency, and in that case also the Collector shall have power to determine from time to time the place of residence of such Minor, and to make such provision as may be necessary for his proper tuition and maintenance during the period of his education.

Charges to be paid out of profits of Ward's estate.

IV. All charges and expenses which may be incurred on account of any Male Minor Ward under the provisions of

this Act, for college or school fees, or for other charges of tuition or education, or by reason of his residence in any place other than his own home, or otherwise, shall be defrayed from the profits of his estate, in the same manner as other expenses incurred under the authority, or with the sanction of the Court of Wards.

V. It shall be lawful for the Court of Wards, on the application of a Collector, to remove from office any guardian who shall neglect or refuse to obey, or shall evade compliance with any orders passed, or directions given by such Collector under the provisions of this Act, and to cause a new guardian to be appointed in his place, whether the person so removed shall have been first invested with the guardianship of the Minor upon the nomination of a Collector acting under the Court of Wards, or by a testamentary appointment confirmed by the Court of Wards.

Court of Wards may remove any Guardian disobeying orders of Collector.

VI. The guardian so removed shall, notwithstanding his removal, continue liable to account to the Collector for his receipts and disbursements during the period of his guardianship, and every guardian, appointed in the place of a guardian so removed, shall be chosen in the same way, and shall have the same rights and powers, and be subject to the same responsibilities, as persons originally appointed to be guardians of Minors by a Collector of Revenue acting under the Court of Wards.

Guardian removed to continue liable to account. New Guardian to have same powers and responsibilities as his predecessor.

VII. The right to the custody of the person of any Male Minor, whose property is under the management of the Court of Wards, is hereby vested in the person appointed with the sanction of the Court of Wards, either originally or upon the removal of a former guardian, to be the guardian of such Minor, or, in the absence of any such person, the Collector of Revenue having the superintendence of the education of such Minor under the provisions of this Act.

Custody of the Minor's person to be vested in the Guardian, or in absence of any Guardian in the Collector.

VIII. Whenever a Minor whose property is under the management of the Court of Wards has a younger brother or brothers entitled to maintenance at the charge of the

Foregoing provisions applicable to younger brothers of Wards.

estate, all the powers and provisions hereinbefore contained for promoting the education of such Minor, are hereby declared and made applicable to such younger brother or brothers.

Penalty for abetting marriage of Wards without leave of Collector, Rs. 2,000, or imprisonment for 6 months.

IX. Whoever knowingly aids or abets the marriage of any Minor, whose property is under the superintendence of the Court of Wards, or the marriage of a younger brother or sister of such Minor, without the leave of the Collector of Revenue acting under the Court of Wards to such marriage first had and obtained, shall, on conviction before a Court of Session, upon the prosecution of such Collector, be liable to a fine not exceeding two thousand Rupees, or to imprisonment not exceeding the term of six months, with or without hard labor.

Proceedings of Collector subject to appeal to Court of Wards.

X. All orders and proceedings of a Collector under the provisions of this Act shall be subject to the revision of the Court of Wards, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Court of Wards.

GENERAL.

ACT XXII. OF 1855.

1. *Act I. 1852, S. XXI, Sch. C. repealed.*
2. *Certain Regulations and Acts to cease to be in force in any port, river or channel, declared subject to this Act.*
3. *Any port, river or channel having been declared subject to this Act, all the provisions herein contained shall have effect therein.*
4. *Declaration shall define limits of each port, &c., and such limits shall always extend to high water mark.*
5. *Limits of port, &c., may be altered from time to time.*
- 6, 7. *Local Government to appoint a Conservator of every port, &c., and may make port rules for certain specified purposes.*

* This Act has been successively extended to the ports of Bombay, the Eastern Coast of the Bay of Bengal, Cuttaek, Madras, Kurrachee, Cambay, Aden, Bassein, Calingapatam, Munsoorcottah Amherst, the Concan, by Acts XXXI and XXXV, of 1857, and Acts II, VII, VIII, IX and XV of 1858, and Acts XXV of 1860, and IV, VIII and XV of 1861—which are all to be read with and taken as parts of this Act.

Sections 16 and 24 of this Act have been specially extended to certain parts in the Madras Presidency by Act XVIII, 1858.

8. *Every declaration and order to be published in Gazettes, or some other public manner.*

9. *Fine of Rs. 100 for any disobedience of orders.*

10. *Conservator may give directions for carrying into effect any port rules.*

11. *Penalty for disobedience to directions of Conservator. Notice of direction how to be served.*

12. *Vessel of 200 Tons and upwards not to be moved without having a pilot, &c., on board, nor smaller vessels without written authority from Conservators. Penalty of Rs. 200.*

13. *Master of Vessel to permit Warps to be made fast to his vessel. Penalty Rs. 200.*

14. *Master not to leave Warp or hawser after sunset. Penalty, Rs. 200.*

15. *Conservator may in case of necessity cut ropes, &c.*

16. *Person causing obstruction to navigation or public nuisance, liable to fine of Rs. 100 and costs of abating nuisance.*

17. *Conservator may remove at owner's expense any floating timber or any obstruction on shore within the limits of the Port.*

18. *Expenses of removing obstruction, &c., may be recovered as a Penalty.*

19. *Conservator may remove lawful obstruction with the sanction of local Government, making compensation for damage as in case of lands taken for public purposes.*

20. *Penalty for injuring buoys, &c., Rs. 200 or imprisonment for 6 months.*

21. *Notice to be given to Conservator if any Vessel gets foul of Government moorings. Penalty Rs. 100.*

22. *Penalty for wilfully loosening any vessel from its moorings, Rs. 200 or imprisonment for 6 months.*

23. *Conservator may raise any wreck, &c., and after one month may recover expenses as provided for in Section 39.*

24. *Penalty for unauthorised discharge of ballast or rubbish likely to impede navigation, Rs. 200 and costs of removal.*

25. *Penalty for graving, breaming, or smoking a vessel within prohibited limits, Rs. 500.*

26. *Penalty for boiling pitch, &c. on board any vessel within prohibited limits, Rs. 200.*

27. *Penalty for drawing off spirits by candle light, &c., Rs. 200.*

28. *Vessels above 200 Tons to be provided with a force-pump, &c. in case of fire. Penalty on Master after requisition and 7 days' delay, Rs. 500.*

29, 30. *Vessels not to have powder, &c. exceeding 50 pounds on board. Government to fix place of deposit, and time and place of landing and shipping.*

31. *Master to make declaration, that he has not on board more than 50 pounds of gunpowder. Penalty for false declaration Rs. 200.*

32. *Officer to give receipt for powder deposited and to account for it.*

33. *If Powder not landed on account of stress of weather, notice to be given.*

34. *Government may fix time and place, and manner for taking in powder for vessels outward bound.*

35. *Penalty for having prohibited powder, &c. on board, Rs. 200 and forfeiture of powder, &c.*

36. *Penalty for discharging guns &c., Rs. 50.*

37. *Penalty for unauthorised persons searching for lost anchors and stores, Rs. 100.*

38. *Registry to be kept of all anchors, &c. recovered by Government officer and reasonable salvage to be paid for the same.*

39. *If property be unclaimed or salvage unpaid, the property may be sold after 6 months or forthwith if perishable.*

40. *Penalty for removing stones, &c., or sinking mooring posts, &c. so as to injure the shore. Rs. 100 and costs of repair.*

41. *No port dues or fees to be hereafter levied except under this or future Act.*

42, 43. *Local Government may vary the port dues, but not so as to exceed the limit fixed by this or other Act.*

44. *Distinct account of port dues and an abstract thereof to be kept.*

45. *Collector of Customs to collect port dues, officer receiving port dues to give signed vouchers.*

46. *Master to report arrival of vessel to Harbour Master within 24 hours. Penalty, Rs. 100.*

47. *If the draft not properly marked on the vessel, Conservator may ascertain it by hooking, at Master's expense.*

48. *Conservator, if not satisfied as to tonnage of vessel by production of register or otherwise, may cause tonnage to be ascertained by measurement at Master's expense.*

49. *On refusal by Master to pay port dues, &c. the Collector may distrain, and after 5 days sell the vessel, tackle, &c.*

50. *Port clearance not to be granted until dues, &c. are paid.*

51. *Conservator, Collector, &c. may go on board any vessel when necessary for discharge of duty. Penalty for opposing entry. Rs. 200.*

52. *Penalty for obstructing officer in the discharge of duty. Rs. 200.*

53. *Harbour Master or Assistant to Conservator or Harbour Master may do all acts that Conservator himself may do, but subject to his control.*

54. *Penalty for hoisting unlawful colors, Rs. 50 in addition to ty under the Statute.*
55. *All offences against this Act to be punishable summarily, penalties may be recovered either under Act II, 1839 or by distress and sale of vessel, tackle, &c.*
56. *Magistrate may order costs and levy them as penalties.*
57. *Magistrate may assess damages or expenses and may levy them as penalties.*
58. *Costs of distress may be recovered in addition to amount levied.*
59. *In case of disputes, the Magistrate may determine the amount to be levied.*
60. *Act not to extend to Vessels of War nor to effect any private right of property nor any constant law.*
61. *East Indian Company not to be answerable for act or default of any Conservator, &c., except when done by express sanction.*
62. *Interprets the word Magistrate.*
63. *Any Magistrate having jurisdiction over any place adjoining the port, river, &c. to have jurisdiction over offences under this Act.*
64. *Conservator or justice of the peace to be guided on merits only; jurisdiction may be gathered from depositions, if not apparent on fall of conviction.*
65. *Interprets the words local Government, Vessel, and Master.*

An Act for the regulation of Ports and Port-dues.

WHEREAS it is expedient to provide for the safety of vessels, and for the convenience of traffic in the several Ports within the territories in the possession and under the Government of the East India Company, and in navigable Rivers and Channels leading to such Ports, and for the improvement, maintenance, and good government of such Ports, Rivers, and Channels; also to regulate the levy of Port-dues, or charges in such Ports, Rivers, and Channels, in order to defray the cost of such improvement, maintenance, and good government; and to punish the unlawful use of certain flags and colors in such Ports, Rivers, and Channels; and whereas it is expedient to abolish the Anchorage dues heretofore levied in the Presidency of Bombay; It is enacted as follows:—

I. Section XXI of Act I of 1852 and Schedule Cap-pended to that Act, are hereby repealed.

Act I, 1852, S.
XXI, Sch. C. re-
pealed.

Certain Regulations and Acts to cease to be in force in any port, &c declared subject to this Act.

II. • Regulation VII. 1801 of the Bengal Code ; so much of Regulation II of 1810 of the Bombay Code as is still in force ; Section XII Regulation III. 1833 of the Bengal Code ; Act XIII of 1839 ; Section XXXIX of Act I of 1852 ; Sections XLII and XLIII of Act XIII of 1852 ; and Act XI of 1853, so far as it relates to the removal of any obstruction, impediment, or public nuisance affecting or likely to affect the navigation of the Port of Bombay—shall cease to be in force in any Port, River, or Channel in which the same respectively are now in force, from the time when such Port, River, or Channel shall be declared to be subject to this Act.

Port, river or channel having been declared subject to this Act, all provisions herein contained shall have effect thereon.

III. The Local Government of any part of the said territories may, with the sanction of the Governor General of India in Council, declare any port within that part of the said territories to be subject to this Act ; and any navigable River or Channel leading to that port to be subject to this Act. When any such port or navigable River or Channel has been so declared to be subject to this Act, all the provisions of this Act, except such as are hereinafter made specially applicable to certain ports by order of the Local Government, shall have effect in that port or navigable River or Channel.

Declaration to define limits of each port, &c., and such limit always to extend to high water mark.

IV. Every declaration by which any port, navigable River, or Channel shall be made subject to this Act, shall define the limits of such Port, navigable River, or Channel ; and such limits shall extend always up to high-water mark, and may include any piers, jetties, landing-places, wharfs, quays, docks, and other works made for any of the purposes mentioned in the preamble of this Act, whether within or without the line of high-water mark, and (subject to any rights of private property therein) any portion of the shore or bank within fifty yards of high-water mark.

Limits of port, &c., may be altered from time to time.

V. The Local Government may from time to time, with the sanction of the Governor General of India in Council, alter the limits of such Port, River or Channel.

Local Government to appoint a Conservator of every port, &c.,

VI. The Local Government shall appoint an officer to be Conservator of every Port, River, or Channel subject to

this Act. In ports where there is a Master Attendant, such Master Attendant shall be the Conservator. In ports where there is no Master Attendant, but where there is a Harbour Master, the Harbour Master shall be the Conservator. In ports where there are both a Master Attendant and a Harbour Master, the Harbour Master and his Assistants shall be subordinate to, and subject to the control of the Master Attendant and his Assistants. The Conservator shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

VII. The Local Government, with the sanction of the Governor General of India in Council, may from time to time make such Port-rules, not inconsistent with this Act, as it may think necessary for any of the following purposes, namely:—

and may make Port Rules for certain specified purposes.

1. For regulating the time at which, and the manner in which, vessels shall enter into or go out of any port subject to this Act.

2. For regulating the berths and stations to be occupied by vessels in any such port.

3. For striking the yards and top-masts, and for rigging in the jib and driver booms, of vessels in any such port, whenever it may be proper so to do.

4. For the removal or proper hanging or placing of anchors, spars, and other things, in or attached to vessels in any such port.

5. For regulating vessels whilst taking in or discharging ballast or cargo, or any particular kind of cargo, in any such Port, River, or Channel, and the stations to be occupied by vessels whilst so engaged.

6. For keeping free passages of such width as may be deemed necessary within any such Port, River, or Channel, and along or near to the piers, jetties, landing-places, wharfs, quays, docks, moorings, and other works in or adjoining to the same; and for marking out the spaces so to be kept free.

7. For regulating the anchoring, fastening, mooring, and unmooring of vessels in any such Port, River, or Channel.

8. For regulating the moving and of all vessels within any such port and the use of warps therein.

9. For regulating the use of the mooring buoys, chain and other mooring in any such Port, River, or Channel.

10. For fixing from time to time the rates to be paid for the use of such moorings, when belonging to the East India Company, or of any boat, hawser, or other thing belonging to the said Company.

11. For regulating cargo and other boats, and catamarans plying for hire in any such port. Provided that nothing in this Act shall authorize the Local Government to fix the price to be charged for the use of any such boat or catamaran.

12. For regulating the use of fires and lights within any such port.

13. For enforcing and regulating the use of signal lights by vessels at night in any such Port, River, or Channel.

Every declaration and order to be published in Gazette, or some other public manner.

VIII. Every declaration and order of a Local Government, which shall be made in pursuance of this Act, shall be published in the Official Gazette of that Government, or, where there is no Official Gazette, in such other public manner as that Government may order; and a copy thereof shall be fixed up in some conspicuous place in the office of the Conservator of every port to which such order shall relate, and in the Custom House, if any, of every such port.

Fine of Rs. 100 for any disobedience of orders.

IX. If any person shall disobey any such order, he shall be liable to a penalty not exceeding One Hundred Rupees for every offence.

Conservator may give directions for carrying into effect any Port Rules.

X. The Conservator of any port subject to this Act may, in respect of any vessel within such Port, River, or Channel, give directions for carrying into effect any Port-rule in force within such port.

Penalty for disobedience to directions of Conservator. Notice of direction how to be served.

XI. If any person shall wilfully, and without lawful excuse, refuse or neglect to obey any lawful direction of such Conservator, after notice thereof shall have been given to him, such person shall, for every such offence, forfeit and pay a sum not exceeding One Hundred Rupees, and a further

sum not exceeding One Hundred Rupees for every day on which he shall wilfully continue to disobey such direction ; and in case of such refusal or neglect it shall be lawful for the said Conservator to do, or to cause to be done, all such acts as shall be reasonable or necessary for the purpose of carrying such direction into execution, and to hire and employ proper persons for that purpose ; and all reasonable expenses which shall be incurred in doing such acts, shall be paid and borne by the person or persons so offending. Any written notice of a direction given under this Act, which shall be left for the Master of any vessel with any person employed on board thereof, or which shall be affixed on a conspicuous place on board of such vessel, shall, for the purpose of this Act, be deemed to have been given to the Master thereof.

XII. In every port subject to this Act, to which the provisions of this Section shall be specially extended by any order of the Local Government, it shall be unlawful to move any vessel of the burthen of 200 tons or upwards, without having a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master on board ; or to move a vessel of any burthen less than 200 tons and exceeding 100 tons without having on board a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master, unless authority in writing so to do has been obtained from the Conservator or some officer empowered by such Conservator to give such authority ; and if any vessel shall, except in a case of urgent necessity, be removed contrary to the provisions of this Section, the Master of such vessel shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence, unless the Master of the vessel shall, upon application to the proper officer be unable to procure a Pilot, Harbour Master, or Assistant of the Master Attendant or Harbour Master to go on board the said vessel.

XIII. The Master of any vessel in any port subject to this Act shall, when required so to do by the Conservator, permit warps to be made fast to such vessel for the purpose of warping any other vessel in the port, and shall not allow

Vessel of 200 Tons and upwards not to be moved without having a pilot, &c. on board, nor smaller Vessels without written authority from Conservators.

Master of Vessel to permit Warps to be made fast to his Vessel. Penalty, Rs. 200.

any such warp to be let go, until required so to do ; and any Master offending against the provisions of this Section shall be liable, for every such offence, to a penalty not exceeding Two Hundred Rupees.

Master not to leave Warp or hawser after sun-set. Penalty, Rs. 200.

XIV. If the Master of any vessel shall cause or suffer any warp or hawser attached to his vessel, to be left out in any such port, after sun-set, in such a manner as to endanger the safety of any boat or other vessel navigating in the said port ; he shall be liable to a penalty for every such offence not exceeding Two Hundred Rupees.

Conservator may in case of necessity cut ropes, &c.

XV. The Conservator of any such port may, in case of urgent necessity, cut, or cause to be cut, any warp, rope, cable, or hawser, which shall endanger the safety of any vessel in such port, or at or near to the entrance thereof.

Person causing obstruction to navigation or public nuisance liable to fine of Rs.100 and costs.

XVI. If any person shall, without lawful excuse, cause any obstruction or impediment to the navigation of any Port, River, or Channel subject to this Act, or shall cause any public nuisance affecting or likely to affect such navigation, every such person shall be liable to a penalty not exceeding One Hundred Rupees, and also to pay all reasonable expenses which shall be incurred in abating or removing such nuisance, obstruction, or impediment ; and the Conservator, or any Magistrate having jurisdiction over the offence, may cause such nuisance, obstruction, or impediment to be abated and removed.

Conservator may remove at owner's expense any floating timber or obstruction on shore.

XVII. The Conservator may remove, or cause to be removed, any timber or raft, floating or being in any part of any such port, which shall impede the free navigation of such port ; or any thing which shall obstruct or impede the lawful use of any pier, jetty, landing-place, wharf, quay, dock, mooring, or other work, on any part of the shore or bank which has been declared to be within the limits of such port, and is not private property ; and the owner of any such timber or raft or other thing shall be liable to pay the reasonable expenses of such removal.

Expenses of removing obstruction, &c. may be

XVIII. If the owner of any such timber or raft, or the person who has caused any such obstruction, impediment, or

public nuisance as in either of the two last preceding Sections mentioned, shall neglect to pay the expense of the removal thereof, within one week after demand, or within fourteen days after such removal shall have been notified in the Official Gazette of the Presidency, or in such other manner as the Local Government by any general or special order may direct, such expenses may be recovered in the same manner as any penalty under this Act, and the Conservator may cause such timber, raft, or other thing, or the materials, of any nuisance or obstruction so removed, or so much thereof as may be necessary, to be sold by Public Auction, and may retain all the expenses of such removal and sale out of the proceeds of such sale; and shall pay the surplus of such proceeds or deliver so much of the said timber or other materials as shall remain unsold, to the owner or other person entitled to receive the same; and, if no such person appear, shall cause the same to be kept and deposited in such manner as the Local Government shall direct; and may, if necessary, from time to time, realize the expenses of keeping the same, together with the expenses of such sale, by a further sale of so much of the said timber or other materials as may remain unsold.

recovered
Penalty.

XIX. If any obstruction or impediment to the navigation of any Port, River, or Channel, subject to this Act, shall have been lawfully made, or shall have become lawful by reason of the long continuance of such obstruction or impediment, or otherwise, the Conservator shall report the same for the information of the Local Government and shall, with the sanction of such Government, cause the same to be removed or altered, making to the person or persons who suffer damage by such removal or alteration reasonable compensation for the same. If any dispute arise concerning such compensation, the matter in dispute shall be determined according to the laws now or hereafter to be in force in the Presidency or place within which such Port, River, or Channel is situate, relating to the determination of like disputes in the case of land required for public purposes.

Conservator
may remove law-
ful obstruction
with the sanc-
tion of local Go-
vernment, mak-
ing compensa-
tion for damage
as in case of
lands taken for
public purposes.

Penalty for injuring buoys, &c. Rs. 200 or imprisonment for 6 months.

XX. If any person shall wilfully and without lawful excuse lift, injure, loosen, or set adrift any buoy, beacon, or mooring, fixed or laid down by or by the authority of the Local Government in any Port, River, or Channel subject to this Act, he shall for every such offence be liable, in addition to the payment of the amount of damages done, to a penalty not exceeding Two Hundred Rupees, or to be imprisoned, with or without hard labor, for a period not exceeding six calendar months.

Notice to be given to Conservator if any Vessel gets foul of Government moorings. Penalty Rs. 100.

XXI. If any vessel shall hook or get foul of any of the buoys or moorings laid down by or by the authority of the Local Government in any such Port, River, or Channel, the Master of such vessel shall not, nor shall any other person, except in the case of emergency, lift such buoy or mooring for the purpose of unhooking or getting clear from the same without the assistance of the Conservator, and the Conservator, immediately on receiving notice of such accident, shall assist and superintend the clearing of such vessel; and the Master of such vessel shall, upon demand, pay such reasonable expense as may be incurred in clearing the same. If any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.

Penalty for wilfully loosening any Vessel from its moorings, Rs. 200 or imprisonment for 6 months.

XXII. If any person shall wilfully and without lawful excuse loosen or remove from its moorings any vessel within any such Port, River, or Channel, without leave or authority from the owner or Master of such vessel, such person shall, for every such offence, forfeit a sum not exceeding Two Hundred Rupees, or, at the discretion of the Magistrate, be imprisoned, with or without hard labor, for a period not exceeding six calendar months.

Conservator may raise any wreck, &c. and after one month may recover expenses as provided for in Section 39.

XXIII. If any vessel shall be wrecked, stranded, or sunk in any such Port, River, or Channel, so as to impede or be likely to impede the navigation thereof, the Conservator may cause the same to be raised, removed, or destroyed; and, unless the expense of such work shall be repaid within one

month after the completion thereof, may recover the same on behalf of the Local Government in the manner provided by Section XXXIX of this Act.

XXIV. If any ballast or rubbish, or if any other thing likely to form a bank or shoal, or to be detrimental to navigation, shall, without lawful excuse, be cast or thrown into any such Port, River, or Channel, or into or upon any place on shore, from which the same shall be liable to be washed into any such Port, River, or Channel, either by ordinary or high tides, or by storms or land floods, the person who shall so cast or throw the same, or cause the same to be so cast or thrown as aforesaid, and the Master of any vessel from which the same shall be cast or thrown, shall forfeit and pay a sum not exceeding Two Hundred Rupees over and above any expenses which may be incurred in removing the same; but this provision shall not extend to any case in which such ballast or other thing shall be cast or thrown into any such Port, River, or Channel, with the consent in writing of any Conservator, or within any limits within which such act may be authorized by Government.

Penalty for unauthorised discharge of ballast or rubbish so as to impede navigation, Rs. 200 and costs of removal.

XXV. If any person shall grave, bream, or smoke any vessel in any such port, contrary to the directions of the Conservator, or at any time or within any limits at or within which such act shall be prohibited by any order of the Local Government, every such person, and also the Master of such vessel, shall forfeit a sum not exceeding Five hundred Rupees for every such offence.

Penalty for graving, breaming, or smoking a vessel within prohibited limits, Rs. 500.

XXVI. If any person shall boil or heat any pitch, tar, resin, dammer, turpentine, oil, or other such combustible matter on board any vessel within any such port, at any place where such act shall be prohibited by order of the Local Government, or contrary to the order or directions of the Conservator, every such person, and also the Master of any vessel on board in which such offence shall be committed shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence.

Penalty for boiling pitch, &c. on board any vessel within prohibited limits, Rs. 200.

Penalty for
drawing off
spirits by candle
light, &c. Rs. 200.

XXVII. If any person shall, by candle-light or other artificial light, draw off spirits on board any vessel within any such Port, every such person, and also the Master of every such vessel, shall be liable for every such offence to a penalty not exceeding Two Hundred Rupees.

Vessels above
200 Tons to be
provided with a
force-pump, &c.
in case of fire.
Penalty

XXVIII. In every such port to which the provisions of this Section shall be specially extended by an order of the Local Government, every vessel exceeding the burthen of 200 tons shall be provided with a proper force-pump, hose, and appurtenances for the purpose of extinguishing any fire that may occur on board; and the Master of every such vessel who, after having been required by the Conservator to comply with such provision, shall, without lawful excuse, neglect or refuse so to do for the space of seven days after such requisition, shall be liable to a penalty not exceeding Five Hundred Rupees.

Vessels not to
have powder, &c.
exceeding 50
pounds on board.

XXIX. The Local Government may, by order, fix the limits within which vessels shall be prohibited from having on board, in any Port, River, or Channel subject to this Act, any quantity of gunpowder, rockets, or other combustible ammunition, exceeding altogether fifty pounds in weight whether manifested for delivery or not; and in such case the Local Government shall appoint a proper place of deposit for such gunpowder, rockets, or combustible ammunition in excess of the quantity above allowed, and an officer to receive the same.

Government to
fix place of de-
posit, and time
and place of
landing and ship-
ping powder.

XXX. The Local Government may, in such case, by order, fix the times at or within which, and the manner in which such gunpowder, rockets, or combustible ammunition shall be landed and deposited by any vessel inward-bound, and also the times at or within which, and the manner in which the same shall be taken on board any vessel from such place of deposit.

Master to make
declaration, that
he has not on
board more than
50 lbs.

XXXI. The Master of such vessel shall, upon such gunpowder, rockets, or combustible ammunition being deposited, make and sign a declaration in writing that there is

not then, to his knowledge or belief, on board such vessel any gunpowder, rockets, or combustible ammunition exceeding the weight of fifty pounds ; and in case such Master shall knowingly make any false declaration with respect to any of the matters aforesaid, he shall be liable to a penalty not exceeding Two Hundred Rupees.

XXXII. The Officer with whom such gunpowder or other combustible ammunition shall be deposited shall give a receipt for the same to the Master or other person making the deposit, and he shall be accountable to such Master or other person for the re-delivery of the same.

Officer to give receipt for powder deposited and to account for it.

XXXIII. If any vessel shall be prevented by stress of weather from landing or depositing such gunpowder, rockets, or other combustible ammunition, in excess of the quantity allowed as aforesaid, the Master or owner of such vessel shall, so soon as the weather may permit, land and deposit the same at the place so appointed as aforesaid, or shall forthwith give notice to the Conservator, or other officer who shall be named for that purpose by any order of the Local Government, of his having such gunpowder, rockets, or other combustible ammunition on board, and shall obey his directions relating to the same.

If powder not landed on account of stress of weather, notice to be given.

XXXIV. The Local Government may also, in respect to such port, by order, fix the times and places at which, and the manner in which, vessels outward-bound, requiring to take in any gunpowder, rockets, or other combustible ammunition, exceeding the quantity above-mentioned, shall take in the same, whether such gunpowder, rockets, or other combustible ammunition, shall have been previously landed from such vessel or not.

Government may fix time and place, and manner for taking in powder for vessels outward-bound.

XXXV. The Master of any vessel which shall have on board any gunpowder, rockets, or other combustible ammunition, contrary to the provisions of this Act, shall be liable to a penalty not exceeding Two Hundred Rupees for every such offence ; and all gunpowder, rockets, or other combustible ammunition which shall be on board any vessel, contrary

Penalty for having prohibited powder, &c. on board, Rs. 200 and forfeiture.

to the provisions of this Act, shall be forfeited to Government, and may be seized by the Conservator, or by any Collector of Customs, or by any Custom House Officer, or other officer authorized in that behalf by any general or special order of the Local Government, within the limits of their respective jurisdictions. Nothing in this Act contained shall extend to any gunpowder, rockets, or other ammunition belonging to Government, or carried for the use of troops of Her Majesty or of the Honorable East India Company on board of any such vessel.

Penalty for discharging guns, &c., Rs. 50.

XXXVI. If any person shall, without lawful excuse, discharge any gun, musket, or other fire-arm in any port subject to this Act, or on or from the landing-places, piers, wharfs, or quays thereof, except a gun loaded only with gunpowder for the purpose of making a signal of distress, or for such other purpose as may be allowed by the Local Government, such person shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees.

Penalty for unauthorised search for lost anchors and stores, Rs. 100.

XXXVII. In every Port, River, or Channel subject to this Act, to which the provisions of this Section shall be specially extended by any order of the Local Government, no person, unless duly authorized by the Conservator, shall creep or sweep for anchors, cables, or other stores, lost or supposed to be lost, in such Port, River, or Channel. Every person offending against this provision shall be liable to a penalty not exceeding One Hundred Rupees.

Registry to be kept of all anchors, &c. recovered by Government officer, and reasonable salvage to be paid for the same.

XXXVIII. If any anchors, wreck, stores, or other property shall be recovered by any officer employed by the Local Government for that purpose, from the bed of any Port, River, or Channel subject to this Act, the Local Government shall be entitled to receive a reasonable sum for salvage, having regard to the place of recovery. A registry shall be kept of all anchors, wreck, or other property so recovered, in such manner, and at such place or places as the Local Government may direct; and such registry shall be open to public inspection at reasonable office hours, except on Sundays and

such holidays as the Local Government may direct ; and such registry shall contain a description of such property, and of the times and places where the same shall have been recovered.

XXXIX. If the property recovered under the last preceding Section, or by a Conservator acting under Section XXIII of this Act, is unclaimed, or if the person claiming the same refuses to pay the amount due to the Local Government in respect thereof, such property, if of a perishable nature, may be sold forthwith ; and if not of a perishable nature, may be sold at any period not less than six months after the recovery thereof by Public Auction ; and on the realization of the proceeds, the amount due to the Local Government for salvage, or for the expenses incurred under Section XXIII as aforesaid, shall be deducted therefrom, and credited to the Local Government, and the balance shall be paid to the person entitled to the property recovered, or if no such person shall appear and claim the same, shall be held in deposit for payment, without interest, to any person who may thereafter establish his right to the same.

If property be unclaimed or salvage unpaid, property may be sold after 6 months or forthwith if perishable.

XL. In every Port, River, or Channel subject to this Act, to which the provisions of this Section shall be specially extended by an order of the Local Government no person without the permission of the Conservator, shall remove or carry away any rock, stones, shingle, gravel, or soil, or any artificial protection from any part of the bank or shore of such Port, or River, or Channel ; and no person shall sink or bury in any part of such bank or shore, whether the same be public or private property, any mooring-post, anchor, or any other thing which is likely to injure, or to be used so as to injure such bank or shore, except with the permission of the said Conservator, and with the aid or under the inspection of such person or persons (if any) as he may appoint to take part in or overlook the performance of such work. If, any person shall offend against the provisions of this Section, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence, and to pay the expenses of repairing the injury (if any) done to such bank or shore.

Penalty for removing stones, &c. or sinking, mooring posts, &c. so as to injure the shore, Rs. 100 and costs of repair.

No Port-dues or fees to be hereafter levied except under this or future Act.

XLI. The dues and fees now usually collected at the several ports within the said territories, may, during the period of one year from the time of the passing of this Act be collected at such ports respectively. No Port-dues or fees shall hereafter be levied in any such port except under the authority of this Act or of an Act hereafter to be passed for fixing the amount thereof; but nothing herein contained shall prevent the levy, as heretofore, of light-duties under Regulation VI. of 1831 of the Bombay Code and Act XIII. of 1854, or of fines or duties payable under Act XXVII. of 1850.

Local Government may vary the Port-dues,

XLII. The Local Government may, from time to time, vary the rate at which Port-dues and fees shall be levied in any such Port, River, or Channel, in such manner as, having regard to the receipts and charges on account of that port, it may deem expedient, by reducing or raising the dues and fees, or any of them; provided that the rates shall not in any case exceed the amount authorized to be taken by this or any subsequent Act.

but not so as to exceed the limit fixed by this or other Act.

XLIII. The Local Government may also, during the period of one year after the passing of this Act, remit altogether or reduce the rate of dues and fees now usually collected on any particular description of vessels.

Distinct account of Port-dues and an abstract thereof to be kept.

XLIV. For every port at which Port-dues shall be levied under this or any subsequent Act, a distinct account, to be called the Account of the Port Fund of the port to which it relates, shall be kept by such officer as the Local Government may appoint for that purpose. This account shall show in complete detail the receipts and charges of the port; and an abstract statement of every such account shall be published annually, as soon after the 1st of May of each year as may be practicable, in which statement the balance at the close of the year at the credit or debit of the port shall be shown. If, for any of the purposes of this Act, an advance of money shall have been or shall be made by Government on account of any port subject to this Act, simple interest upon that advance, or upon so much of it as remains or shall remain unrepaid, at such rate as the Governor

General in Council may determine, shall be charged in the Port Fund Account thereof; all expenses, including the pay and allowances of all persons upon the establishment of the port, the cost of buoys, beacons, lights, and all other works maintained chiefly for the benefit of vessels being in, or entering, or leaving the port, or passing through the Rivers or Channels leading thereto, but excluding receipts and expenses on account of Pilotage, incurred for the sake of every such port, shall be charged in the Port Fund Account of that port. And all money, including salvage money, proceeds of waifs, and fines, received under this Act, at or on account of every such port, shall be credited in the Port Fund Account of that port.

XLV. The Collector of Customs at every such port, or such other officers as the Local Government shall appoint shall collect the Port-dues above-mentioned. The officer to whom any such Port-dues shall be paid, shall grant to the person paying the same a proper voucher in writing under his hand, describing the name of his office, the port or place at which the same shall be paid, and the name, tonnage, and other proper description of the vessel in respect of which such payment shall have been made.

Collector of Customs to collect Port-dues, and to give signed vouchers.

XLVI. Within twenty-four hours after the arrival, within the limits of any such port, of any vessel liable to the payment of Port-dues under this or any subsequent Act, the Master of such vessel shall report such arrival to the Conservator of such port; and if any Master of a vessel shall, without lawful excuse, fail to make such report within the time aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees for every such offence.*

Master to report arrival of Vessel to Harbour Master within 24 hours. Penalty, Rs. 100.

XLVII. If any vessel liable to the payment of Port-dues under this or any subsequent Act, shall be in any such port without proper marks on the stem and stern posts thereof for denoting the draught of such vessel, the Conservator may

If draft be not properly marked on the Vessel, Conservator may ascertain it by hooking at Master's expense.

* The provisions of this Section are declared in applicable to Tug Steamers and River Steamers belonging to the Port of Calcutta by Act XXX, Sec. 5.

in any case in which it shall be necessary to ascertain the draught of such vessel, cause the same to be ascertained by means of the operation of hooking, and the Master of such vessel shall be liable to pay the expenses of such operation.

Conservator, if not satisfied as to tonnage of Vessel by production of register or otherwise, may cause tonnage to be ascertained by measurement at Master's expense.

XLVIII. In order to ascertain the tonnage of any vessel liable to pay Port-dues under this or any subsequent Act, the following rules shall be observed :—

Clause 1.—If such vessel be a British-registered vessel or a vessel registered under Act X of 1841, or Act XI of 1850, or under the laws for the time being in force for the registration of vessels in India, the Conservator may require the owner or Master of such vessel, or any person having possession of the register of such vessel, to produce such register for inspection ; and if any such Master or other person shall without lawful excuse, neglect or refuse to produce such register as aforesaid, he shall be liable to a penalty not exceeding One Hundred Rupees. If any such owner, Master or other person as aforesaid shall neglect or refuse to produce such register, or otherwise to satisfy the Conservator as to what is the true tonnage of the vessel in respect of which such Port-dues shall be payable, it shall be lawful for the Conservator to cause such vessel to be measured, and the tonnage thereof to be ascertained ; and in such case the owner or Master of such vessel shall also be liable to pay the expenses of such measurement.

Clause 2.—If such vessel be not a British-registered vessel, or a vessel registered under Act X of 1841 or Act XI of 1850, or under the laws for the time being in force for the registration of vessels in India, and the owner or Master thereof shall fail to satisfy the Conservator as to what is the true tonnage of such vessel, according to the mode of measurement prescribed by the law in force for the time being for regulating the measurement of British registered vessels, the Conservator shall cause such vessel to be measured and the tonnage thereof, according to the mode aforesaid, to be ascertained ; and in such case, the owner or Master of such vessel shall be liable to pay the expenses of such measurement.

XLIX.* If the Master of any vessel, in respect of which any Port-dues, fees, or charges shall be payable under this or any subsequent Act, shall refuse or neglect to pay the same or any part thereof on demand, the Collector of Customs, or other person authorized to collect such Port-dues or charges, may distrain or arrest of his own authority such vessel, and the tackle, apparel, and furniture belonging thereto, or any part thereof, and detain the same until the amount due shall be paid; and in case any part of the said Port-dues or charges, or of the costs of the distress or arrestment, or of the keeping of the same, shall remain unpaid for the space of five days next after any such distress or arrestment so made, the Collector of Customs, or other such person as aforesaid, may cause the vessel or other thing so distrained or arrested to be sold, and with the proceeds of such sale may satisfy the Port-dues, charges, and costs, including the costs of sale remaining unpaid, rendering the surplus (if any) to the Master of such vessel, upon demand.

L. The officer of Government, whose duty it shall be to grant a Port Clearance for any vessel, shall not grant such Port Clearance, until the owner, agent, or Master of that vessel, or some other person, shall have paid all Port-dues, fees, and charges to which such vessel, or the owner or Master of such vessel in respect thereof, shall be liable under this or any subsequent Act.

LI. The Conservator or any of his Assistants may, whenever he shall suspect that any offence has been or is about to be committed in any vessel contrary to this Act, or whenever it is necessary for him so to do in the discharge of any duty imposed upon him by this Act; and the Collector of Customs or other officer appointed to collect any Port-dues or other charges payable in respect of any vessel under this or any subsequent Act, may, whenever it is necessary so

On refusal
Master to
the Collector
distrain, and after
5 days sell the
Vessel, tackle, &c.

Port clearance
not to be granted
until dues, &c.
are paid.

Conservator,
Collector, &c. may
go on Board any
Vessel when ne-
cessary for dis-
charge of duty.
Penalty for oppos-
ing entry, Rs. 200.

* See Act XIX, 1860 which makes provision for the recovery of Port-dues, &c. payable at one port by Collector at any other port, and which is to be read with and taken as part of this Act.

to do for the performance of any duty imposed upon such Collector or other officer under this Act, either alone or with any other person or persons, go on board any vessel within the limits of any Port, River, or Channel subject to this Act. If the Master or other person in charge of such vessel shall without lawful excuse, refuse to allow any such Conservator or any of his Assistants or any such Collector of Customs, or other officer or person, to enter such vessel for the performance of any duty imposed upon him by this Act, he shall, for every such offence, be liable to a penalty not exceeding Two Hundred Rupees.

Penalty for obstructing officer in the discharge of duty, Rs. 200.

LII. If any person shall wilfully obstruct or hinder any officer in the execution of any duty imposed or power conferred by this Act, or shall assault or ill-treat him in the discharge of such duty, or in the exercise of such power, such person shall, for every such offence, be subject to a penalty not exceeding Two Hundred Rupees.

Harbour Master or Assistant to Conservator, or Harbour Master may do all acts that Conservator himself may do, but subject to his control.

LIII. All acts, orders, or directions by this Act authorised to be done or given by any Conservator, may subject to his control, be done or given by any Harbour Master or any Assistant of such Conservator or Harbour Master. And any person hereby authorized to do any act, may call to his aid such assistance as may be necessary.

Penalty for hoisting unlawful colors, Rs. 50 in addition to penalty under statute.

LIV. If any vessel belonging to any of Her Majesty's subjects, or sailing under British colors, shall hoist, carry, or wear, within the limits of any Port, River, or Channel subject to this Act, any flag, jack, pendant, or colors, the use whereof on board such vessel shall have been prohibited by the Statute 17, and 18 Victoria Chapter 104, or any other Statute now or hereafter to be in force, or by any Proclamation made or to be made in pursuance of any such Statute, or by any of Her Majesty's Regulations in force for the time being, the Master of such vessel shall, for every such offence, be liable to a penalty not exceeding Fifty Rupees; and such penalty shall be in addition to any other penalty which may be recoverable under the said Statute, or any future Statute

to be made in that behalf; and it shall be lawful for any Officer of the Indian Navy, within the limits of such Port, River, or Channel, or for the Conservator of such Port, to enter on board any such vessel, and to seize and take away any flag, jack, pendant, or color so unlawfully hoisted, carried, or worn on board the same.

LV. All offences against this Act shall be punishable in a summary manner by a Magistrate. And in addition to the means prescribed by Act II of 1839, the provisions of which are hereby extended to all penalties imposed under this Act, it shall be lawful for a Magistrate, by Warrant under his hand, to cause the amount of any such penalty imposed upon the owner or Master of any vessel for any offence committed on board of such vessel, or in the management thereof, or otherwise in relation thereto, whereof such owner or Master shall be convicted, to be levied by distress and sale of such vessel, and the tackle, apparel, and furniture thereof, or so much thereof as shall be necessary.

All offences against Act to be - table and penalties may be recovered either under Act II. 1839 or by distress and sale of Vessel, &c.

LVI. In case of any conviction under this Act, the convicting Magistrate may order the offender to pay the costs of such conviction in addition to any penalty or expenses to which he may be liable. Such costs may be assessed by the Magistrate, and may be levied and recovered in the same manner as any penalty under this Act.

Magistrate may order costs and levy them as penalties.

LVII. In every case in which any person shall be liable, under the provisions of this Act, to pay any sum of money, damages, or expenses not exceeding One Thousand Rupees, the same may be recovered and levied in the same manner as any penalty under this Act, and if necessary, the amount thereof may be fixed and assessed by the Magistrate before whom the case shall be tried.

Magistrate may assess damages &c. and levy them as penalties.

LVIII. In any case in which any penalty, damages, or expenses, shall be levied under this Act, by distress and sale, the costs of such distress and sale may be levied in addition to such penalty, damages, or expenses, and in the same manner.

Costs of distress may be recovered in addition to amount levied.

In case of dispute the Magistrate may determine the amount to be levied.

LIX. If any dispute shall arise concerning the amount leviable by any distress or arrestment by virtue of this Act, or the charges or costs payable under the last preceding Section, the person making such distress or using such arrestment may detain the goods distrained or arrested, or the proceeds of the sale thereof, until the amount to be levied shall have been determined by a Magistrate; who, upon application made to him for that purpose, shall have power to determine such amount, and to award such costs to be paid by either of the parties to the other of them, as he shall think reasonable; and payment of such costs, if not paid on demand, shall be enforced in the same manner as any penalty under this Act.

Act not to extend to vessels of war nor to affect any private right of property nor any Customs law.

LX. Nothing in this Act shall extend to any vessel belonging to, or in the service of Her Majesty, or of the East India Company, or to any vessel of war belonging to any Foreign Prince or State; nor to deprive any person of any right of property or other private right, except as hereinbefore expressly provided; nor to affect any law or regulation relative to the Customs; nor any order or direction which shall have been lawfully made or given in pursuance of the provisions of any such law or regulation.

East India Company not to be answerable for act or default of any Conservator &c., except when done by express sanction.

LXI. The East India Company shall not be answerable for any act or default of any Master Attendant, Harbour Master, or other Conservator of any Port, River, or Channel subject to this Act; or of any Pilot; or of any Deputy, or Assistant of any of the officers above-mentioned; or of any person acting under the authority or directions of any such officer or Assistant, done within the limits of such Port, River, or Channel; nor for any damage or injury sustained by any vessel in consequence of any defect in any of the moorings, hawsers, or other things belonging to the said Company, within the said limits, which may be used by such vessel. Provided that nothing in this Section shall protect the East India Company from an action in respect of any act done by or under the express order or sanction of Government.

LXII. The word "Magistrate" in this Act shall include a Justice of the Peace of the Presidency Towns of Calcutta, Madras and Bombay, or for the Settlement of Prince of Wales' Island, Singapore, and Malacca, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and also any Deputy or Assistant Magistrate to the extent of the powers of such Deputy or Assistant Magistrate.

Interprets the word Magistrate.

LXIII. Whereas divers ports and navigable Rivers may be situated partly within the jurisdiction of one Magistrate, and partly within that of another, by reason whereof doubts may arise upon questions of jurisdiction over offences which may be committed contrary to this Act; it is therefore enacted that, if any person shall be guilty of an offence against the provisions of this Act in any Port, River, or Channel subject to this Act, such offence shall be punishable by any Magistrate having jurisdiction over any district or place adjoining such Port, River, or Channel, or adjoining either side of that part of the navigable River or Channel in which such offence shall be committed; and that such Magistrate may exercise all the powers of a Magistrate under this Act, in the same manner and to the same extent as if such offence had been committed locally within the limits of his jurisdiction, notwithstanding the offence may not have been committed locally within such limits; and in case any such Magistrate shall exercise the jurisdiction hereby vested in him, the offence shall be deemed, for all purposes, to have been committed locally within the limits of his jurisdiction.

Any person having jurisdiction over any place adjoining the port, river, &c. to have jurisdiction over offences under this Act.

LXIV. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the deposition taken, or a copy of them shall be returned with the convictions, order or judgment, in obedience to any writ of *certiorari*; and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the

Conviction of the Justice of the Peace to be quashed on merits only.

conviction, order, or judgment shall be aided by what so appears in such depositions.

Interprets the words, local Government, Vessel, and Master.

LXV. In the construction of this Act, unless there be something in any special provision thereof, or in the context, repugnant to such construction, the words "Local Government" shall be deemed to mean the person or persons for the time being immediately administering the Executive Government of that portion of the territories under the government of the East India Company in which the Port, River, or Channel in question is situated. The word "Vessel" shall include any thing made for the conveyance by water of human beings or of property. The word "Master," when used in relation to any vessel shall mean and include any person having for the time being the charge, or command, or control of such vessel.

SUPREME
COURTS.

ACT No. XXIII. OF 1855.

1. *Mortgage debts on property descending or devised, how to be discharged. Proviso as to the right of mortgagee to full satisfaction from the personal estate of the deceased. Proviso as to claims made prior to this Act.*

An Act to amend the Law relating to the administration of the Estates of deceased persons charged with money by way of Mortgage.

WHEREAS it is expedient that the law, under which the real and personal assets of deceased persons subject to the English Law are administered, should be amended ; It is enacted as follows :—

I. After this Act shall have come into operation, if any person shall die seised of, or entitled to any estate or interest in any land or other hereditaments within the territories in the possession and under the government of the East India Company, which shall, at the time of his death, be charged with the payment of any sum or sums of money by way of mortgage, and such person shall not by his will or deed or other document have signified any contrary or other intention, the heir or devisee to whom such

land or hereditaments shall descend or be devised shall not be entitled to have the mortgage-debt discharged or satisfied out of the personal estate or any other real estate of such person, but the land or hereditaments so charged shall, as between the different persons claiming through or under the deceased person, be primarily liable to the payment of all mortgage-debts with which the same shall be charged, every part thereof, according to its value, bearing a proportionate part of the mortgage-debts charged on the whole thereof: Provided always, that nothing herein contained shall affect or diminish any right of the mortgagee of such lands or hereditaments to obtain full payment or satisfaction of his mortgage-debt, either out of the personal estate of the person so dying as aforesaid or otherwise: Provided also that nothing herein contained shall affect the rights of any person claiming under or by virtue of any will, deed, or document already made, or to be made, before this Act shall have come into operation.

ACT No. XXIV. OF 1855.

GENERAL.

1. *No European or American to be sentenced to transportation.*
2. *Terms of penal servitude substituted for the present terms of transportation.*
3. *Discretion of Courts as to alternative punishments not to be affected.*
4. *Effect of pardon, granted upon condition of penal servitude.*
5. *The Executive Government may direct Europeans or Americans under sentence of transportation to be kept in penal servitude. Terms of penal servitude in such case.*
6. *Persons under sentence of penal servitude where to be sent and how to be dealt with. Intermediate imprisonment. Proviso.*
7. *All Acts, &c., respecting convicts under sentence of transportation or imprisonment with hard labour made applicable for the purposes of this Act.*
8. *Removal of European or American convicts under sentence of imprisonment from one prison to another.*
9. *Governor General in Council may grant a license to be at large to any convict under sentence of penal servitude.*
10. *Holder of such license not to be imprisoned, &c.*

11. *If license revoked, the convict may be apprehended and committed to prison.*
12. *Penalty for breach of condition of the license.*
13. *Act not to affect the provisions of certain English Statutes.*
14. *What to be deemed proof that a person is a European or an American.*
15. *Construction of Act.*
16. *Commencement of Act.*

An Act to substitute penal servitude for the punishment of Transportation in respect of European and American Convicts, and to amend the law relating to the removal of such Convicts.

WHEREAS, by reason of the difficulty of providing a place to which Europeans or Americans can, with safety to their health, be sent for the purpose of undergoing sentences of transportation or of imprisonment for long terms, it has become expedient to substitute other punishment for that of transportation, and to amend the law relating to the removal of European and American Convicts for the purpose of imprisonment; It is enacted as follows:—

No European or American to be sentenced to transportation.

I. After the commencement of this Act, no European or American shall be liable to be sentenced or ordered, by any Court within the territories in the possession and under the government of the East India Company, to be transported.

Terms of penal servitude substituted for the present terms of transportation.

II. Any person who, but for the passing of this Act, would, by any law now in force, or which may hereafter be in force, in any part of the said territories, be liable to be sentenced or ordered by any such Court to be transported, shall, if a European or American, be liable to be sentenced or ordered to be kept in penal servitude for such term as hereinafter mentioned.

The terms of penal servitude to be awarded by any sentence or order instead of the term of transportation to which any such offender would, but for the passing of this Act, be liable, shall be as follows: (that is to say)—

Instead of transportation for seven years, or for a term not exceeding seven years, penal servitude for the term of four years.

Instead of any term of transportation exceeding seven years, and not exceeding ten years, penal servitude for any term not less than four and not exceeding six years.

Instead of any term of transportation exceeding ten years and not exceeding fifteen years, penal servitude for any term not less than six and not exceeding eight years.

Instead of any term of transportation exceeding fifteen years, penal servitude for any term not less than six, and not exceeding ten years.

Instead of transportation for the term of life, penal servitude for the term of life. And in every case where, at the discretion of the Court, one of any two or more of the terms of transportation hereinbefore mentioned might have been awarded, the Court shall have the like discretion to award one of the two or more terms of penal servitude hereinbefore mentioned, in relation to such terms of transportation.

III. Provided always, that nothing herein contained shall interfere with or affect the authority or discretion of any Court in respect of any punishment which such Court may now award or pass on any offender other than transportation; but where such other punishment may be awarded at the discretion of the Court instead of transportation or in addition thereto, the same may be awarded instead of, or (as the case may be) in addition to, the punishment substituted for transportation by this Act.

Discretion of Courts as to alternative punishment not to be affected.

IV. If any offender sentenced by any Court within the said territories to the punishment of Death shall have mercy extended to him, upon condition of his being kept in penal servitude for life, or for any term of years, all the provisions of this Act shall be applicable to such offender in the same manner as if he had been lawfully sentenced under this Act to the term of penal servitude specified in the condition.

Effect granted upon condition of penal servitude.

V. It shall be lawful for the Governor General of India in Council or for the person or persons for the time being administering the Executive Government of any Presidency or place in which a European or American has been lawfully

Government may direct Europeans or Americans under sentence of transportation to be kept in penal servitude.

Term of servitude
in such case.

sentenced by any Court to be transported, to order such person to be kept in penal servitude for the shortest term of penal servitude substituted by this Act for a term of transportation of the same extent as that to which the offender was sentenced, or that portion thereof which he shall not have undergone, provided that no person shall be kept in penal servitude under the provisions of this Section after the expiration of the term of transportation to which he was sentenced.

Persons under
sentence of penal
servitude where to
be sent and how
to be dealt with.
Intermediate im-
prisonment.

VI. Every person who, under this Act, shall be sentenced or ordered to be kept in penal servitude, may, during the term of the sentence or order, be confined in any such prison or place of confinement within any part of the said territories as the Governor General of India in Council shall, by any General Order, from time to time direct; and may during such time be kept to hard labour; and such person may, until he can conveniently be removed to such prison or place of confinement, be imprisoned, with or without hard labour, and dealt with in all other respects in the same manner as persons sentenced by the convicting Court to imprisonment with hard labour may, for the time being, by law be dealt with. Provided, that the time of such intermediate imprisonment, and the time of removal from one prison to another, shall be taken and reckoned in discharge or part discharge of the term of the sentence.

Proviso.

All Acts, &c.,
respecting con-
victs under sen-
tence of trans-
portation or im-
prisonment with
hard labour made
applicable for the
purposes of this
Act.

VII. All Acts and Regulations now in force within any part of the said territories, with respect to convicts under order or sentence of transportation, or under order or sentence of imprisonment with hard labour, shall, so far as may be consistent with the express provisions of this Act be construed to extent and be applicable to persons under any order or sentence of penal servitude made or passed under this Act.

Removal of
European or
American con-
victs under sen-
tence of im-
prisonment from one
prison to another.

VIII. The person or persons for the time being administering the Executive Government of the Presidency or place in which any European or American convict is imprisoned, under a sentence or order of imprisonment for a term exceeding one year, whether with or without hard labour,

may, with the consent of the Governor General of India in Council, order the removal of such prisoner from the prison or place in which he is confined to any other public prison or place of confinement within any part of the said territories ; and such order shall be a sufficient authority for imprisoning the convict during the remainder of the term mentioned in the sentence, or any part of such term, in the Jail to which the prisoner is removed.

IX. It shall be lawful for the Governor General of India in Council to grant to any convict, who may hereafter be sentenced or ordered to be kept in penal servitude, a license to be at large within the said territories, or in such part thereof as in such license shall be expressed, during such portion of his term of servitude, and upon such conditions in all respects as to the Governor General of India in Council shall seem fit ; and it shall be lawful for the said Governor General in Council at any time to revoke or alter such license by a like order.

G. G. in C. may grant a license to be at large to any convict under sentence of penal servitude.

X. So long as such licences shall continue in force and unrevoked, such convict shall not be liable to imprisonment or penal servitude by reason of his sentence, but shall be allowed to go and remain at large according to the terms of such license.

Holder of such license not to be imprisoned, &c.

XI. In case of the revocation of any such license as aforesaid, it shall be lawful for one of the Secretaries to the Government of India by order in writing, to signify to any Justice of the Peace or Magistrate that such license has been revoked, and to require such Justice or Magistrate to issue a warrant for the apprehension of the convict to whom such license was granted, and such Justice or Magistrate shall issue his warrant accordingly ; and such warrant may be executed by any officer to whom it may be directed or delivered for that purpose in any part of the said territories, and shall have the same force and effect in any place within such territories as if the same had been originally issued or subsequently endorsed by a Justice or Magistrate, or other lawful authority having jurisdiction in the place where the same shall be executed ; and such convict, when apprehended un-

If license revoked, the convict may be apprehended.

der such warrant, shall be brought, as soon as he conveniently may be, before the Justice or Magistrate by whom the said warrant shall have been issued, or some other Justice or Magistrate of the same place, or before a Magistrate or Justice having jurisdiction in the zillah or district in which such convict shall be apprehended, and such Justice or Magistrate shall thereupon make out his warrant, under his hand and seal, for the re-commitment of such convict to the prison or place of confinement from which he was released by virtue of the said license, and such convict shall be re-committed accordingly, and shall thereupon be liable to be kept in penal servitude for such further period as, with the time during which he may have been imprisoned under the original sentence or order, and the time during which he may have been at large under an unrevoked license, shall be equal to the period mentioned in the original sentence or order.

Penalty
breach of
condition
of the
license.

XII. If a license be granted under Section IX of this Act upon any condition specified therein, and the convict to whom the license is granted violate any such condition, or shall go beyond the limits specified in the license, or, knowing of the revocation of such license, shall neglect forthwith to surrender himself, or shall conceal himself or endeavour to avoid being apprehended, he shall be liable, upon conviction, to be sentenced to penal servitude for a term not exceeding the full term of penal servitude mentioned in the original sentence or order.

Act not to affect
the provisions of
certain English
Statutes.

XIII. Nothing in this Act is intended to alter or affect the provisions of the 12 and 13 Victoria Chapter 43, or any Act of Parliament passed in the United Kingdom of Great Britain and Ireland since the 28th of August 1833, or which may hereafter be passed.

What to be
deemed proof
that a person is
a European or an
American.

XIV. Any sentence or order upon any person describing him as a European or American shall be deemed, for the purposes of this Act, to be conclusive of the fact that such person is a European or American within the meaning of this Act.

XV. The word "European" as used in this Act, shall be understood to include any person usually designated a European British subject. Words in the singular number or the masculine gender shall be understood to include several persons as well as one person, and females as well as males, unless there be something in the context repugnant to such construction.

Construction.

XVI. This Act shall commence from and after the first day of November 1855.

Commencement
of Act.

ACT No. XXV. OF 1855.*

MADRAS.

1. *Session Judge of Coimbatore empowered to hold Sessions at Ootacamund on the establishment of a subordinate Criminal Court constituted according to Regulation VIII. of 1827 of the Madras Code.*

2. *Principal Sudder Ameen to give notice of commitment to Session Judge.*

3. *Principal Sudder Ameen vested with certain Criminal powers.*

An Act to empower the Session Judge of Coimbatore to hold Sessions at Ootacamund on the Neilgherry Hills.

WHEREAS it is expedient to provide that persons charged with offences committed on the Neilgherry Hills, for which they are amenable to the Jurisdiction of the Session Judge of Coimbatore, shall be tried at Ootacamund; It is enacted as follows :—

I. When the Governor in Council of Fort St. George shall establish at Ootacamund on the Neilgherry Hills a subordinate Criminal Court constituted according to Regulation VIII of 1827 of the Code of Fort St. George, it shall be lawful for the Session Judge of Coimbatore to hold Sessions at Ootacamund for the trial of persons committed by that Court for offences subject to his jurisdiction.

II. When the Principal Sudder Ameen of such Court shall commit for trial before the Court of Session for the Zillah of Coimbatore a prisoner charged with a crime or misde-

meanor subject to the jurisdiction of that Court, he shall give immediate notice of the commitment to the Session Judge, and the Session Judge shall, within two months from the date of the commitment, proceed to hold a Court at Ootacamund for the trial of such prisoner; and if any other prisoners shall have been committed in the meantime, he shall continue the Session of the Court until all such prisoners shall have been tried.

III. ' It shall be lawful for the Principal Sudder Ameen of the said Court to exercise all the powers of a Criminal Court constituted according to Regulation II of 1827; and also, by appointment of the Government of Fort St. George, all the powers of a Joint Magistrate.

GENERAL.

ACT No. XXVI. OF 1855.

1. *Secretary of Government Savings' Bank in certain cases, to pay without probate, &c., money belonging to the estate of a deceased depositor. Payment to be a discharge. Saving of right of executor, &c. And of creditor.*

2. *Security for due administration.*

3. *Power to administer oath, &c. Penalty for false testimony.*

4. *Administrator General not to grant certificate in respect of money deposited.*

5. *Act not to apply to money belonging to the estates of European Soldiers, Sailors, &c.*

An Act to facilitate the payment of small deposits in Government Savings' Banks to the representatives of deceased depositors.

WHEREAS it is expedient to facilitate the payment of small sums belonging to the estates of deceased depositors in the Savings' Banks established by Government within any part of the territories in the possession and under the government of the East India Company to the representatives of such depositors; It is enacted as follows:—

I. If a depositor in any Government Savings' Bank shall die leaving therein a sum of money not exceeding Five Hundred Rupees, and probate of his Will or letters of administration of his estate or effects or a certificate granted

Secretary of Government Savings' Bank in certain cases, to pay without probate, &c., money of a deceased depositor.

under Act No. XX of 1841, or under Section IV of Act No. X of 1851, shall not be produced to the Secretary of such Bank within the period of two months from the time of the death of the said depositor, it shall be lawful for the Secretary of such Bank to pay the same to any person or persons who shall appear to him to be entitled to receive the same or to administer the effects of the deceased; and such payment shall be a full indemnity and discharge from all further liability in respect of the money so paid; but nothing herein contained shall preclude any executor or administrator or representative of the deceased from recovering from the person or persons receiving the same the amount remaining in his or their hands after deducting the amount of all debts or other demands lawfully paid or discharged by him in due course of administration; and any creditor or claimant against the estate of the deceased shall be at liberty to recover his debts or claim out of the money so paid to such person or persons and remaining in his or their hands unadministered, in the same manner and to the same extent as if such person or persons had obtained letters of administration to the estate of the deceased.

Payment to be
discharge.

Saving of right
of executor, &c.,

and of creditor.

II. The Secretary of any such Bank may take such security as he shall think necessary from any person or persons to whom he shall pay any money under the preceding Section, for the due administration and distribution of the money so paid, and may assign the same to any person or persons interested in the due administration and distribution thereof, which person or persons may sue on the same in his or their own names.

Security for due
administration.

III. For the purpose of ascertaining the right of the person or persons claiming to be entitled as aforesaid, it shall be lawful for the Secretary of any such Bank to administer an oath or affirmation; and every person who, having been sworn or having taken a solemn affirmation under this Act, shall wilfully give false testimony upon any examination authorized by this Act, shall be deemed guilty

Power to ad-
minister oath, &c.
Penalty for
testimony.

of perjury, and if convicted, shall be liable to be punished accordingly.

Administrator General not to grant certificate in respect of money deposited.

IV. From and after the passing of this Act, no Administrator General of a Presidency shall grant a certificate under Section XLIII of Act No. VIII of 1855 in respect of any sum of money deposited in a Government Savings' Bank.

Act not to apply to money belonging to the estates of European Soldiers, Sailors, &c.

V. Nothing in this Act contained shall apply to the payment of any money deposited in a Government Savings Bank, belonging to the estate of any European Officer or Soldier dying in Her Majesty's service in India, or of any European Officer or Soldier dying in the service of the East India Company, or to the estate and effects of any Officer, Seaman, or other person dying in the Marine Service of the said Company called the Indian Navy, or to the estate and effects of any person who, at the time of his death, was a deserter from any of the said Services.

PRESIDENCY TOWNS.

ACT NO. XXVII. OF 1855.*

1. *Banks of Bengal, Madras, and Bombay empowered to transact certain business in respect of Government Securities and Shares in the said Banks.*

An Act to enable the Banks of Bengal, Madras, and Bombay to transact certain business in respect of Government Securities and Shares in the said Bank.

WHEREAS it is expedient to authorize the several Banks of Bengal, Madras, and Bombay to transact the kinds of business hereinafter mentioned ; It is enacted as follow :—

I. In addition to the kinds of business in which the Bank of Bengal, the Bank of Madras, and the Bank of Bombay may now by law be respectively engaged, it shall be lawful for any of the said Banks to transact all or any of the following kinds of business, either with or without receiving commission or payment for the transaction thereof, that is to say :

* Modified as to the Bank of Bengal by Act No. IV, 1862.

First.—To take charge of any Government Securities or shares in any of the said Banks.

Second.—To receive the interest or dividends on any such securities or shares.

Third.—To invest any money deposited in any of the said Banks in the purchase of any such securities or shares.

Fourth.—To sell or transfer any such securities or shares deposited with them : or to receive any principal money that may become payable thereon.

Fifth.—To re-invest the principal, interest, or dividends so received, or the proceeds arising from such sale, in Government Securities or shares in any of the said Banks, or to hold or pay such principal, interest, dividends, or, according to the instruction of their constituents and at their risk, to remit the same by public or private Bills, whether payable in India or not, and to do all acts necessary or proper for the purpose of making such remittances. Provided that, if any such remittance be made by a note or bill of any of the said three Banks, the same must be payable in India on demand.

ACT No. XXVIII. OF 1855.

GENERAL.

1. *Section 30 of Cap. 63 of 13 Geo. III., and regulations repealed.*
2. *What rate of interest shall be decreed by the Court in any suit.*
3. *Rate of interest upon a judgment or decree.*
4. *Contract for the usufruct of property, in lieu of interest, to be binding.*
5. *What amount of interest to be deposited in certain cases of conditional sales under the Bengal Regulations. Proviso.*
6. *Rate of interest on future adjustments of accounts.*
7. *Transactions previous to this Act not to be affected.*
8. *Commencement of Act.*

An Act for the repeal of the Usury Laws.

WHEREAS it is expedient to repeal the laws now in force relating to Usury ; It is enacted as follows :—

I. Section XXX of the Act of Parliament passed in the thirteenth year of the reign of his late Majesty King George the Third, intituled “ an Act for establishing certain regula-

Section 30 of
Cap. 63 of 13 Geo.
III., and certain
regulations re-

tions for the better management of the affairs of the East India Company as well in India as in Europe," shall not apply in any part of the territories in the possession and under the government of the said Company to any bond, contract, or assurance whatsoever, which shall be made or entered into within the said territories after the passing of this Act; and the several parts of Regulations mentioned in the Schedule hereto annexed, and all laws in force in any part of the said territories relating to Usury, are hereby repealed.

Rate of interest to be decreed by the Court.

II. In any suit in which interest is recoverable, the amount shall be adjudged or decreed by the Court at the rate (if any,) agreed upon by the parties; and if no rate shall have been agreed upon, at such rate as the Court shall deem reasonable.

Rate of interest upon a judgment or decree.

III. Whenever a Court shall direct that a judgment or decree shall bear interest, or shall award interest upon judgment or decree, it may order the interest to be calculated at the rate allowed in the judgment or decree upon the principal sum adjudged, or such other rate as the Court shall think fit.

Contract for the usufruct of property, in lieu of interest, to be binding.

IV. A mortgage or other contract for the loan of money by which it is agreed that the use or usufruct of any property shall be allowed in lieu of interest, shall be binding upon the parties.

What amount of interest to be deposited in certain cases of conditional sales under the Bengal Regulations.

V. Whenever, under the Regulations of the Bengal Code, a deposit may be made of the principal sum and interest due upon any mortgage or conditional sale of land hereafter to be entered into, the amount of interest to be deposited shall be at the rate stipulated in the contract, or, if no rate has been stipulated and interest be payable under the terms of the contract, at the rate of twelve per centum per annum. Provided that, in the latter case, the amount deposited shall be subject to the decision of the Court as to the rate at which interest shall be calculated.

Proviso.

Rate of interest on future adjustments of accounts.

VI. In any case in which an adjustment of accounts may become necessary between the lender and the borrower of money upon any mortgage, conditional sale of landed pro-

perty, or other contract whatsoever, which may be entered into after the passing of this Act, interest shall be calculated at the rate stipulated therein; or, if no rate of interest shall have been stipulated, and interest be payable under the terms of the contract, at such rate as the Court shall deem reasonable.

VII. Nothing hereinbefore contained shall prejudice or affect the rights or remedies of any person, or diminish or alter the liabilities of any person, in respect of any act done, or contract entered into, previously to the passing of this Act.

Previous trans-
actions not to be
affected.

VIII. This Act shall commence and take effect from the 1st day of January 1856.

Commencement
of Act.

SCHEDULE.

Sections IV, VI, VII, VIII, IX, X, and XI, Regulation XV, 1793 of the Bengal Code.

Sections III, V, VI, VII, VIII, IX, and X, Regulation XXXIV. 1803 of the same Code.

Clause I, Section XXIII. Regulation VIII. 1805 of the same Code, so far as it extends the above-mentioned Sections of Regulation XXXIV. 1803 to the Zillahs therein referred to.

Clauses 3, 4, 5, and 6, Section IX. Regulation XIV. 1805 of the same Code; and so much of Section XI of the same Regulation as may be deemed to have extended to the Zillah of Cuttack any of the clauses or sections above-mentioned or any law relating to Usury.

Section II. Regulation XVII. 1806 of the same Code, so far as it extends to the province of Benares, subject to modifications, the above-mentioned sections of Regulation XV, 1793; and Sections IV and VI of the same Regulation.

Sections II, IV, V, and VI. Regulation XXXIV. 1802 of the Madras Code; and Section VIII of the same Regulation, so far as it may be deemed to limit the rate of interest to be allowed on mortgage bonds.

Section XXII, Regulation IV, 1816 of the same Code.

Section XIV., Regulation V. 1816 of the same Code.

Section XV., Regulation VI. 1816 of the same Code.

Section XIII., Regulation VII. 1816 of the same Code.

So much of Section VII., Regulation II. 1825 of the same Code as limits the rate of interest to be allowed by the Courts on bonds or other instruments which shall be entered into after the passing of this Act.

Sections X, XI, and XII. Regulation V. 1827 of the Bombay Code. •

MADRAS.

ACT No. XXIX. OF 1855.

1. *Board of Revenue empowered to revise proceedings of officers employed in the collection of Sea Customs and Land Frontier Customs.*
2. *Board, instead of Governor in Council, to pass orders in certain cases.*
3. *Appeal in certain cases to lie to Board, instead of Governor in Council.* • • •

An Act for amending Act No. VI. of 1844.

WHEREAS it is prescribed by Regulation, II. of 1803 of the Madras Code, that the Collectors of the public revenue derived from duties on commodities by sea or land, as well as from other sources, shall be under the immediate control of the Board of Revenue, and shall obey all orders communicated to them by the authority of that Board; and it is expedient to amend Act No. VI. of 1844, in so far as it may be construed to exempt any orders or proceedings of officers employed in the collection of Customs from the revision and control of the said Board of Revenue, and in so far as it makes the proceedings of Collectors of Customs depend upon the orders of Government in certain cases; It is enacted as follows :—

I. The Board of Revenue is empowered to revise the proceedings of all officers employed in the collection of Sea Customs and Land Frontier Customs, under Act No. VI. of 1844, and to annul or modify the orders of such officers.

II. The Board of Revenue is empowered, instead of the Governor in Council, to pass orders in all cases in which, by the proviso in Section XVII. Act No. VI of 1844 relating to baggage, and by Sections XXVI and LXI of the same

Act, the proceedings of the Collectors of Customs are dependent on the orders of Government.

III. In case of imported goods being charged by a Collector of Customs, under the first rule annexed to Schedule A of Act No. VI. of 1844, with a rate of duty above what they are liable to on the declaration of the importer as to the place of manufacture or production, an appeal shall lie to the Board of Revenue, instead of the Governor in Council.

ACT No. XXX. OF 1855.

BOMBAY.

An Act to repeal Section VII of Act No. XXVIII of 1839.

WHEREAS it is expedient to repeal Section VII of the said Act, the provisions thereof being unnecessary—

I. It is enacted that Section VII. of Act No. XXVIII. of 1839 be repealed.

ACT No. XXXI. OF 1855.*

GENERAL.

1. *Partial repeal of Act XIV of 1839.*
2. *Natives may emigrate from Calcutta, Madras, and Bombay to Saint Lucia and Grenada.*
3. *Appointment and duties of Emigration Agents.*
4. *Protector of Emigrants.*
5. *Emigrant ship to be licensed. Fee for license. Master of ship to give bond. Penalty if ship be not licensed.*
6. *Master of vessel not to receive on board any Emigrants without a certificate. Certificate what to state.*
7. *Before Port-clearance, Master of ship to obtain certificate from Emigration Agent stating—That the third article in the Schedule and the directions in the Schedule, as to health, &c., and the Government Rules touching medical attendance, clothing, &c., have been complied with.*
8. *Probable lengths of voyage. Time of sailing.*
9. *Master to deliver list to Emigration Agent.*
10. *Penalty for clearing ship without complying with rules.*

* Extended to Emigration to the Colonies of Natal and St. Kitts by Acts XXXIII. and XLII. of 1860. See also Act II. of 1860.

11. *Penalty for taking on board, after clearance, Emigrants not entered in list.*

12. *Penalty for fraudulent acts, whereby certificate becomes inapplicable to the altered state of the vessel.*

13. *Custom House Officers and Pilots to exercise, for the purposes of this Act, certain powers vested in the former for the prevention of smuggling.*

14. *Custom House Officers and Pilots at Calcutta to countersign papers. To muster crew and passengers and Emigrants. To report on Emigrants on board. Penalty.*

15. *Punishment for forgery of document required by this Act.*

16. *Penalties how to be enforced.*

17. *Act when to take effect.*

An Act relating to the Emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada.

WHEREAS it is expedient to render lawful the emigration of laborers, being Native inhabitants of the territories in the possession and under the government of the East India Company, to the British Colonies of Saint Lucia and Grenada, and to provide regulations for ships carrying Native Emigrants from the said territories to either of the said Colonies; It is enacted as follows :—

Partial repeal of
Act XIV. of 1839.

I. Act No. XIV. of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labour to be performed in the British Colonies of Saint Lucia and Grenada, or who shall knowingly aid or abet any Native of India in emigrating from the ports of Calcutta, Madras, and Bombay, respectively, to the said Colonies, is repealed.

Natives may
emigrate to Saint
Lucia and Gre-
nada.

II. After the passing of this Act, Native inhabitants of the said territories shall be allowed to pass and to be conveyed as Emigrant laborers to Saint Lucia and Grenada, respectively, from the ports of Calcutta, Madras, and Bombay, respectively, but not otherwise.

Appointment
and duties of Em-
igration Agents.

III. At each of the three ports aforesaid, it shall be lawful for the Government of the Presidency or place within which the port is situated, to authorize such person or persons as may be nominated by the Governments of Saint

Lucia and Grenada, respectively, to act as Emigration Agents at the aforesaid ports respectively, and to exercise the powers conferred on Emigration Agents by this Act ; and every such Emigration Agent shall make monthly reports to the Government to which he is subordinate of all matters transacted by him in pursuance of this Act.

IV. The Protector of Emigrants at each of the three ports aforesaid shall act as protector of laborers emigrating under the provisions of this Act from the aforesaid ports respectively.

Protector of
Emigrants.

V. It shall not be lawful to convey any Emigrant, being a Native of India, who may embark for the purpose of laboring for hire in either of the said Colonies from any of the ports aforesaid in any ship or vessel, unless a license be obtained for carrying Emigrants in any such ship or vessel from the Government of the Presidency or place in which the port is situated. A fee, not exceeding one Rupee per Emigrant, as may be regulated from time to time by the Local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government, and the granting or withholding any such license shall be entirely discretionary with the Government ; and in consideration of such license, the Master of every ship conveying, or destined to convey Emigrants from India, shall execute a Bond, binding himself and his owners in a penal sum of 10,000 Rupees, to conform to the several conditions herein provided, and the said Bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the Colony to which the Emigrants are to be conveyed, and one copy shall be forwarded to the Government of such Colony, to be dealt with as the case may require. And every ship or vessel, in which any such Emigrant shall be conveyed without a license being obtained as aforesaid, shall be liable to be forfeited, and the Master thereof shall be liable, as for a misdemeanor, to a fine of 1,000 Rupees for every such Emigrant so illegally conveyed.

Emigrant ship
to be licensed.

Fee for license.

Master of ship
to give bond.

Penalty if ship
be not licensed.

Master of vessel not to receive on board any Emigrants without certificate.

Certificate what to state.

Before Port-clearance, Master of ship to obtain certificate from Emigration Agent stating three specific matters.

VI. It shall not be lawful for the Master of any vessel licensed as abovementioned to receive on board any Emigrant laborer, as above provided, unless such laborer shall have in his possession and show a certificate or pass, to be given to him by the Emigration Agent of the port, countersigned by the Protector of Emigrants, stating his name, and the name of his father, and his age, and certifying that, having appeared before such Agent, he has declared his willingness to proceed to work for hire in the Colony to which such vessel is bound, and has been engaged by him as an Emigrant to such Colony on the part of the Government thereof.

VII. Before any ship or vessel, so licensed to carry Emigrant laborers as above provided, shall be cleared out from any of the aforesaid ports for either of the said Colonies, it shall be necessary for the Master of such ship or vessel, provided any Emigrant of the description aforesaid shall embark therein, to obtain from the Emigration Agent, so nominated and authorized at such port as aforesaid, a certificate, under the hand of such Agent, to the effect following, that is to say—

First.—That such Agent has, by personal communication, done what is required on the part of such Agent by the third Article of the Schedule hereunto annexed; provided always, that every such Agent shall make the enquiries specified in such Schedule in an open Court or public office to which all persons shall have admission.

Second.—That all the directions contained in the fourth, fifth, sixth, and seventh Articles of the said Schedule, for ensuring the health and safety of passengers, have been duly complied with.

Third.—That (in addition to the directions contained in the said Schedule) such Rules have been complied with as the Governor General in Council shall from time to time frame, touching the medical attendance and medical stores, and the proper clothing to be provided, the species of provisions suited to native habits, the number of women that should accompany the Emigrants, or other matters.

VIII. The probable lengths of the voyages to Saint Lucia and Grenada, from the ports aforesaid, respectively, shall, for the purpose of this Act, be deemed to be—

Probable lengths
of voyage.

From the Port of Calcutta, twenty weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks; and no ship or vessel carrying Emigrant laborers to Saint Lucia or Grenada shall sail from Calcutta, Madras, or Bombay at any other time than between the 31st day of August and the 1st day of March next thereafter ensuing.

Time of sailing.

IX. Before any ship or vessel shall be cleared out from any of the aforesaid Ports or Saint Lucia or Grenada, it shall be necessary for the Master thereof to deliver to the Emigration Agent, so nominated and authorized at such port as aforesaid, the list specified in Article 10 of the said Schedule, and to obtain such duplicate thereof as is required by the said Article.

Master to de-
liver list to Emi-
gration Agent.

X. If the Master of any ship or vessel shall, at any of the ports aforesaid, take on board such ship or vessel any Emigrant laborer of the description aforesaid, and shall clear such ship or vessel for Saint Lucia or Grenada without having fully complied with every particular herein required previously to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding two hundred Rupees for every Emigrant laborer so taken on board his ship or vessel.

Penalty for
clearing ship
without complying
with rules.

XI. If the Master of any ship or vessel shall, after having cleared such ship or vessel at any such port as aforesaid for Saint Lucia or Grenada, take on board any such Emigrant laborer as aforesaid, without having entered such Emigrant laborer in such list as aforesaid, or without having obtained such duplicate as aforesaid containing the entry of such Emigrant prior to clearance, he shall be liable, on conviction before any Magistrate or Justice of the peace, to a penalty not exceeding five hundred rupees for every Emigrant so taken on board his ship or vessel.

Penalty for tak-
ing on board, after
clearance Emi-
grants not entered
in list.

Penalty for
fraudulent acts,
whereby certi-
ficate becomes in-
applicable to the
altered state of the
vessel.

XII. If any Master of any ship or vessel cleared for Saint Lucia or Grenada as aforesaid shall, after having obtained such certificate as aforesaid, fraudulently do, or suffer to be done, any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers or other matters to which such certificate relates, such Master shall be liable, on conviction, to a penalty not exceeding five thousand Rupees, beside incurring a forfeiture of any Bond executed in consideration of any license obtained for the vessel as originally described.

Custom House
Officers and Pilots
to exercise, for the
purposes of this
Act, certain
powers.

XIII. All the powers vested by law in the Officers of Customs in regard to the searching and detention of ships or vessels, or otherwise for the prevention of smuggling on board thereof, may be exercised by such officers for the prevention of the illegal embarkation of such emigrants as aforesaid on board ships or vessels bound for Saint Lucia or Grenada, and of other offences against this Act: and all Pilots in the service of the East India Company shall be invested with the same powers, and be charged with the same duties as preventive Officers of customs in this behalf.

Custom House
Officers and Pilots
at Calcutta to
countersign.

XIV. Whenever a vessel shall clear from Calcutta for Saint Lucia or Grenada with Emigrant laborers duly embarked thereon, the Customs Officer on board such vessel shall countersign the pass or certificate brought on board such vessel by every such Emigrant laborer, and shall keep a register of every such Emigrant laborer as may come on board. And such Customs Officer shall remain on board such vessel until she shall arrive in Saugor Roads, and shall not come away until a muster of the crew and passengers and Emigrant laborers has been made in his presence, and in that of the Pilot in charge of the vessel; and after the Customs Officer has taken muster and quitted the vessel, the Pilot shall continue to exercise the duties indicated in Section XIII. of this Act; and it shall be lawful for him, if he shall deem it necessary, to require the Master or Commander to take a general muster of the crew and passengers and Emigrant

To muster crew
and passengers
and Emigrants.

laborers on board, and to sign a muster roll so taken. And every such Custom House Officer and Pilot shall make a complete Report of the Emigrant laborers on board of any ship at the time of his quitting the same, and such Report shall contain a declaration that, to the best of the declarant's belief, no additional Emigrant laborers have been received on board since obtaining the certificate, and that nothing else has been done or omitted to be done in the ship or vessel contrary to the provisions of this Act; and every such report or muster, if any, shall be transmitted without delay to the Emigration Agent of the Port. And any Custom House Officer or Pilot who shall wilfully make a false, erroneous, or incomplete report of the Emigrant laborers on board of any ship or who shall connive at the unauthorized embarkation of any such Emigrant laborers, shall be liable, besides dismissal, to a fine of five hundred Rupees, commutable, if not paid, to imprisonment in the Calcutta Jail for six months, and the penalty shall be adjudged in like manner as similar penalties are adjudged for offences committed in respect of the Customs Revenue.

Report as to
Emigrants on
board.

Pénalty.

XV. If any person shall forge, or shall use, knowing it to be forged, any document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

Punishment for
forgery.

XVI. All the several penalties to which the Masters of ships or vessels are liable by this Act, shall be enforced by information laid before any Justice of the Peace at the instance of the Emigration Agent, or of any officer appointed for the purpose by the Government of the Presidency or place, or may be enforced by putting in suit the Bond given by the Master, if such Bond has been given in consideration of the license granted to the ship.

Penalties how to
be enforced.

XVII. This Act shall take effect as to the said Colonies respectively from the day when the Governor General of India in Council, or in his absence the President in Council, shall notify in the *Calcutta Gazette*, that such Regulations

Act when to
take effect.

have been provided, and such measures taken, as he may deem necessary for the protection of such Emigrants during their residence in such Colony, and in respect of their return to India.

SCHEDULE

Appointment of
Emigration
Agents.

1. The Governors of Saint Lucia and Grenada may, from time to time, nominate such persons as they shall see fit to act as Emigration Agents at Calcutta, Madras, and Bombay.

Remuneration.

2. The remuneration to be given to any such Agent in India shall not depend upon or be regulated by the number of Emigrants sent by him but shall be in the nature of an annual salary.

Duty.

3. Every such Emigration Agent shall ascertain, by personal communication with every Emigrant previously to his or her embarkation from the port or place for which such Agent shall have been appointed, that such Emigrant has not been induced to emigrate by any fraud, false or unreasonable expectation, and is aware of the distance of the Colony to which he or she is about to emigrate from the place where he or she is about to embark, and such Agent shall explain the real advantages likely to be derived by such Emigrant from a removal to such Colony, at the same time cautioning such Emigrant against unreasonable and unwarrantable expectations; and such Agent shall also ascertain that every such Emigrant is in good health, and not incapacitated from labor by old age, bodily infirmity, or disease.

Number of pas-
sengers.

4. It shall not be lawful to ship on board of any ship or vessel carrying Emigrants from India to either of the Colonies aforesaid, any number of passengers exceeding the proportion of one person for every two tons of the registered burthen of such ship or vessel: and no such ship or vessel carrying Emigrants, and having more than one deck, shall have less than the height of six feet at the least between decks; and in case such ship or vessel shall have only one deck, a platform shall be laid beneath such deck, and in such manner as to afford a space of the height of six feet at the

least, and such platform shall not be so laid as that the lower beams shall project above the same; and no such ship or vessel shall have more than two tiers of berths; and no such ship or vessel shall carry passengers on any such voyage to any of the Colonies aforesaid, unless there shall be an interval of six inches at least between the deck or platform and the floor of the lower tier, throughout the whole extent thereof; and whatever may be the tonnage of the ship or vessel, no greater number of passengers shall be taken on board of such ship or vessel than shall be after the rate of one such person for every twelve superficial feet of the lower deck or platform, unoccupied by goods or stores not being the personal luggage of such person.

5. In the computation of the number of passengers within the meaning of these Regulations, two Children under the age of ten years shall be considered as equal to, and shall be reckoned as, one person only.

Children.

6. There shall be actually laden on board of every ship or vessel conveying Emigrants into either of the Colonies aforesaid, at the time of departure of such ship or vessel from the port at which such laborers shall be embarked, good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following: that is to say, a supply of water to the amount of five gallons* for every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks; and a supply of rice, bread, biscuit, flour, oatmeal, or bread stuffs to the amount of seven pounds weight to every week of the computed voyage for every such passenger. Provided always, that when any such ship or vessel shall be destined to call at a port or place in the course of her voyage, for the purpose of filling up her water-casks, a supply of

Provisions.

* See Act XLIX 1860, which provides for a reduction of one-third of the water supply when Emigrant vessels are furnished with Normandy's apparatus for distilling sea water.

water at the rate before mentioned for every week of an average voyage to such port or place of calling shall be deemed to be a compliance with this Regulation ; and provided that the preceding food shall be deemed to have been complied with in any case when it shall be made to appear that, by the special authority of the Governor General of India in Council, any other articles of food were substituted for the articles above enumerated as being in his judgment equivalent thereto.

Survey of ship.

7. " Before any such ship or vessel shall be cleared out on any such voyage, the Emigration Agent appointed for the port or place from which such ship or vessel shall be cleared out shall survey, or cause to be surveyed by some competent person the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed sea-worthy, and that the directions hereinbefore contained for ensuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof, under his hand, to the Master of such ship or vessel.

Master to furnish provisions.

8. The Master of every ship or vessel conveying Emigrants to Saint Lucia or Grenada shall be bound to provide for and furnish to every such Emigrant, and his wife and children, a sufficient quantity of good and wholesome provisions for his, her and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel at the place of destination.

Copies of Rules.

9. Two copies of these Regulations, and two copies of a translation thereof in the Bengalee language, or such other language as the Government may direct, authenticated by the signature of the Emigration Agent at the port or place at which such Emigrants shall embark, shall be delivered to the Master by such Agent, at the time of the clearance,

and shall be kept on board of every ship or vessel carrying such Emigrants as aforesaid, during the whole voyage, and one of such copies or translations shall upon request made at reasonable times to the Master of the ship or vessel, be produced to any passenger for his perusal.

10. The Master of every ship or vessel carrying Emigrants from India to either of the Colonies aforesaid shall, before clearing out such ship or vessel, deliver to such Emigration Agent at the port or place from which such vessel is cleared out, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and occupations of all and every the Emigrants on board such ship or vessel, and such Agent shall thereupon deliver to the said Master the counterpart of such list signed by such Agent; and the said Master shall, on the arrival of such ship or vessel at the place of destination and previous to the disembarkation of any such Emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the Protector of emigrants appointed, or to be appointed, at the Colony at which the said ship or vessel may have arrived.

List of Emigrants.

11. Provided always that nothing in these Regulations contained shall apply to any ship or vessel in the service of the Lords Commissioners of the Admiralty or to any of Her Majesty's Ships of War.

Rules not to apply to ships of war.

ACT No. XXXII OF 1855.

BENGAL, L. P.

1. *Regulations repealed.*
2. *What is a public embankment within this Act.*
3. *Who to have superintendence of public embankments.*
4. *Superintendent may take charge of any embankment which connects public embankments, &c. And remove private embankment endangering a public embankment. And change the line of any public embankment, &c.*
5. *Before taking charge of private embankments, &c., Superintendent to give notice to Collector, who shall issue a proclamation. Publication of proclamation. Procedure on appearance of parties.*

Appeal from orders of Superintendent and Commissioner of Revenue. Orders not open to revision by the Civil Court.

6. *Maintenance of private embankments taken charge of by the officers of Government. Proviso.*

7. *Compensation for damages sustained under this Act.*

8. *Application by landholder to have a sluice made in a public embankment.*

9. *Opening of sluices.*

10. *Officer in immediate charge of embankments may authorize temporary water-course, &c. to be made.*

11. *Specifications and estimates for maintaining or improving embankments kept up at the expense of Zemindars to be prepared annually, &c.*

12. *Superintendent to report as to removal of buildings, &c.*

13. *After award, Collector to give notice of payment, and to remove buildings, &c. in 30 days.*

14. *Collector may remove buildings, &c., at the cost of the owners, in case they neglect to do so themselves.*

15. *Penalty for obstructing officer or person in discharge of duty.*

16. *Penalty for wilful damage to embankment by cutting, &c.*

17. *Penalty for other wilful damage.*

18. *Jurisdiction of deputy or Assistant Magistrate under this Act.*

19. *Provision of Section XIII Regulation XX. 1817 extended to this Act.*

20. *Right of appeals.*

21. *Interpretation.*

An Act relating to Embankments.

WHEREAS the Regulations now in force for the maintenance of embankments in the territories under the Government of the Lieutenant-Governor of Bengal have been found ineffectual for the intended purpose thereof, and whereas it is desirable that provision should be made for the better supervision and protection of the same; It is enacted as follows:—

Regulations re-
pealed.

I Regulations VI of 1806 and Regulation XI of 1829 so far as they relate to the said territories, are hereby repealed, except so far as they repeal the whole or part of any other Regulation, and except as to acts done, offences committed, and liabilities incurred before the passing of this Act.

What is a pub-
lic embankment.

II. The word “embankment” in this Act means an embankment for the purpose of excluding or retaining water;

and every embankment which is now kept up, or may hereafter be kept up, by the officers of Government, at the expense either of Government or of any private person, is a public embankment within the meaning hereof.

III. The superintendence of the public embankment shall be entrusted, subject to the general orders of Government, to an officer who shall be called the Superintendent of Embankments.

Who to superintend public embankments.

IV. *Clause 1.*—The Superintendent of Embankments may cause any embankment which connects public embankments, or forms by junction with them part of a line of embankments, or is necessary for the protection of the neighbouring country, to be taken charge of and kept up by the officers of Government.

Powers of Superintendent.

Clause 2.—He may also cause any private embankment, which endangers the stability of a public embankment, or obstructs the beneficial drainage of the country, to be removed.

Clause 3.—He may also, when necessary, change the line of any public embankment, or make a new embankment.

Clause 4.—He may also enlarge any public embankment, and do all acts necessary and proper for the maintenance thereof.

V. *Clause 1.*—Before the Superintendent shall cause any of the works mentioned in the first three Clauses of the next preceding Section to be executed, he shall give notice in writing to the Collector of the district of his intention so to do. Upon the receipt of such notice, the Collector shall cause a proclamation to be issued, incorporating the substance of the notice, and calling upon all persons interested, who may be desirous of showing cause against the execution of such works, to appear before him on a certain day to be named therein.

Before taking charge of private embankments, &c., Superintendent to give notice to Collector, who shall issue a proclamation.

Clause 2.—The proclamation shall be published by affixing the same in the Cutcherry of the Collector, the Mal-Cutcherry (if any) of the estate on which the works are intended to be executed, and on some conspicuous spot in the

Publication of proclamation.

neighbourhood thereof. The proclamation shall be published not less than fifteen days before the day appointed for hearing the parties interested.

Procedure
appearance
parties, on
of

Clause 3.—The Collector shall hear the objections of any parties who may appear, and, after recording any evidence which they may adduce, shall communicate the objections that may be made, together with his opinion thereon to the Superintendent of Embankments. If the Superintendent agree in opinion with the Collector, he shall pass an order accordingly. If he differ from the Collector, the case shall be referred to the Commissioner of Revenue, who shall pass such orders thereon as he may deem fit.

Appeal from or-
ders of Superin-
tendent and Com-
missioner of Re-
venue.

Clause 4.—Every such order passed by the Superintendent shall be appealable to the Commissioner of Revenue and every order of the Commissioner shall be appealable to the Board of Revenue; but no appeal shall lie against any order passed under this Section, unless the same be presented within one month from the date of the order.

Orders not open
to revision by the
Civil Court.

Clause 5.—Subject to the right of appeal abovementioned, and to the orders and control of Government, every order passed under this Section shall be final, and shall not be open to revision by any Civil Court, and shall be conclusive as to the necessity of any works ordered to be executed.

Maintenance of
private embank-
ments taken
charge of by the
Government.

VI. Whenever the Superintendent of Embankments shall hereafter cause an embankment, which any person is bound to keep up to be taken charge of by the officers of Government, the expense of keeping up such embankment shall be charged to such person. Provided that the amount so charged shall not exceed the reasonable expense of keeping up an embankment of the size and description which such person was bound to keep up, notwithstanding the embankment shall have been enlarged or improved by the officers of Government.

Compensation
for damages.

VII. *Clause 1.*—When the Superintendent of Embankments shall enlarge or change the line of any embank-

ment, or make a new embankment to be removed, any person sustaining damages thereby, who, but for the passing of this Act, would be entitled to compensation, may prefer his claim for such compensation to the Collector of the District, at any time within twelve months after the execution of the work by which he is endamaged, and the Collector thereupon shall report the case for the orders of the superior Revenue authorities. If the claim be rejected, the claimant shall not be deprived by reason of this Act of any right, which he might otherwise have had, to recover such compensation by a civil action; but such action shall not lie, unless the claimant shall have first preferred his claim to the Collector within the period above-mentioned, nor unless the suit be brought within a period of one year after notice to the claimant of its rejection. If the claim for compensation be admitted by the Revenue authorities, and the amount of compensation cannot be agreed upon, the same shall be settled by arbitration, in the manner hereinafter provided, and in no other manner, unless by the consent of the claimant and of the superior Revenue authorities.

Clause 2.—Unless the Collector and the claimant concur in the appointment of a single arbitrator, the Collector on the part of Government, and the claimant, shall each appoint an arbitrator. The appointment shall be in writing and neither of the said parties shall have power to revoke the same without the consent of the other.

Clause 3.—If there be several claimants for compensation in respect to the same injury, and they cannot agree in the appointment of an arbitrator on their behalf, in that case each of them may nominate one person; and the Collector shall choose by lot out of the persons so nominated by the parties or any of them, a person to act as arbitrator on behalf of the claimants. If only one person shall be so nominated, he shall be the arbitrator on behalf of the claimants.

Clause 4.—When more than a single arbitrator shall be appointed, the arbitrators shall, before they enter upon the matters referred to them, nominate and appoint by writing

a third person to act with them as arbitrator ; and in case the arbitrators shall neglect to appoint such third arbitrator for a period of seven days after having been required so to do, the Collector may appoint such third arbitrator. If the arbitrators differ in opinion, or if one of them, having received due notice of a meeting of arbitrators, neglect to attend, any two of arbitrators may make an award.

Clause 5.—If any person, on being appointed an arbitrator, shall refuse to act, or after accepting the appointment shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

Clause 6.—After the arbitrators have accepted the appointment; the Collector shall be competent to exercise towards them such powers and authority, for securing their attendance and the due completion of their award, as the said Collector may legally exercise towards witnesses summoned before him when acting judicially for the purposes of compelling them to attend and give evidence.

Clause 7.—If no award be made within a period to be fixed for that purpose by the Collector, he may order that the matter shall be referred to another arbitrator or other arbitrators to be chosen in the same manner and subject to the same rules as the first.

Clause 8.—The Collector shall furnish to the arbitrators, or, so far as may be in his power, procure for them any information which his records or those of any public department may afford connected with the subject of enquiry. He shall on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps, and plans, as they shall require. He shall also cause the proper affirmation to be made and signed by any witness whom the arbitrators may desire to examine upon affirmation, or he may empower the arbitrators to cause such affirma-

tion to be made and signed before them. Any witness who shall refuse or omit to appear when duly summoned by the Collector, or who shall appear but shall refuse to make such affirmation, or who shall refuse to give evidence, shall be liable to the same punishment which would be incurred under the law by a witness refusing to appear or give evidence before the Collector when acting judicially. Any person giving intentionally and deliberately a false deposition, under an affirmation, in any case referred to arbitration as above, shall be held to be guilty of perjury, and shall be liable to the penalties prescribed for that offence by law.

Clause 9.—On the close of the enquiry, the arbitrators shall deliver a full and complete award, which shall specify the amount of compensation and the party or parties entitled thereto. The proceedings of the arbitration shall be deposited in the Collector's office; and every party interested therein shall be entitled to a copy of the award on plain paper under the seal and signature of the Collector, which copy shall be *prima facie* evidence thereof.

Clause 10.—If the right to the compensation awarded shall in any case be doubtful, or if there exist any grounds, which, in the judgment of the arbitrators or of the Collector, render it improper to make immediate payment thereof to any of the claimants, the amount shall be invested in Government securities, and held in deposit until one of the claimants shall obtain an order of Court for the payment thereof.

Clause 11.—No award passed under this Section shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators; and no suit to set aside such an award shall be entertained, unless it be instituted within three months from the date of the award. In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators, to be appointed in the same manner as the first.

Clause 12.—All suits and proceedings instituted against Government in any case in which compensation has been awarded, except suits instituted for the reversal of awards

as aforesaid, shall be dismissed with costs. But nothing herein contained shall affect the right of any party to recover the amount awarded from any person who may have received the same without any just title thereto.

Clause 13.—In fixing the amount of compensation to which any person may be entitled by reason of any of the acts mentioned in Clause 1 of this Section, the Court or arbitrators, as the case may be, shall take into consideration whether any party to the suit or arbitration has derived or will derive benefit from the act in respect of which the compensation is claimed, and shall set off the estimated value of such benefit, if any, against the compensation which would otherwise be decreed or awarded to that party.

Clause 14.—The Provisions of this Section shall not be held applicable to cases in which the compensation to be made has reference only to huts, trees, or crops, which it may be necessary to remove or destroy in enlarging or changing the line of a public embankment. In all such cases the officer in charge of the public embankments of the district shall report to the Collector, and the Collector shall thereupon proceed to value and make compensation for such huts, trees, and crops, in the manner prescribed in Section XII of this Act.

Application by
landholder to
have a sluice
made in a public
embankment.

VIII. *Clause 1.*—If any landholder, farmer, or cultivator be desirous of having a sluice made in any public embankment for the purpose of drainage or irrigation, he shall make an application in writing to the Collector of the district in which such embankment is situate. The application shall contain such particulars of the land to be drained or irrigated as may enable the officers of Government to judge of the advantage which may be derived from the work, and shall declare, as regards an embankment maintained at the expense of the State, whether the applicant is willing to bear such part, not exceeding half of the cost thereof, as may be determined by Government—and, as regards any other public embankment, whether the applicant is willing to defray the whole or such part of the cost incident to and attendant on the proposed work as may be determined as aforesaid.

Clause. 2.—The Collector shall transmit such application to the officer in charge of the embankments of the district, who shall report his opinion thereon to the Superintendent of Embankments, and if he be of opinion that compliance with the application is unobjectionable, shall annex to his report a plan of the proposed work and an estimate of the expense of its construction. The Superintendent of Embankments shall pass such order thereon as he shall think fit, which order shall be final.

Clause 3.—If the construction of the proposed sluice receive the approval of the Superintendent of Embankments, the Collector shall require the applicant to enter into a written agreement to defray the whole or half of the expense, or such portion thereof as may be determined under the provisions of Clause 1 of this Section, as the case may be; and upon such agreement being executed, shall issue a certificate to the officer in charge of the public embankments of the district, to construct the sluice.

IX. Sluices constructed in any public embankment shall be opened only by or with the permission of the officer in the immediate charge of the embankment, under such orders, either general or special, as he may receive from the officer in charge of the public embankments of the district or from the Superintendent of Embankments.

Opening
sluices.

X. Whenever any person is desirous that a temporary water-course should be made through, or that a temporary road-way should be made over, any public embankment, or that a temporary dam should be constructed in any embanked river, he shall apply to the nearest officer of the Embankment Department, who shall communicate the application to the officer in charge of the public embankments of the district, and that officer shall pass such orders thereon as he shall think fit, subject to the control of the Superintendent of Embankments. If the proposed work is to be executed by an officer of Government, the applicant, before the commencement of the work, shall enter into a written agreement to defray the expenses of and incident to making such

Officer in im-
mediate charge
of embankments
may authorize
temporary water
course, &c. to be
made.

road-way, or of making and closing or removing such water-course or dam. In any case of emergency the officer in immediate charge of an embankment, subject to such general instructions as he may receive from the officer in charge of the embankments of the district, or from the Superintendent of Embankments, may cause a temporary water-course to be made through such embankment.

Specifications and estimates for maintaining or improving embankments kept up at the expense of Zemindars to be prepared annually, &c.

XI. *Clause 1.*—Specifications of the work and estimates of the expense which may be required for the maintenance or improvement of embankments kept up at the expense of Zemindars or others shall be prepared as soon after the rains, in each year as may be practicable. Copies of the specifications and estimates shall be transmitted to the office of the Collector, and may be examined by any person interested in the embankments. Notice of the receipt of the specifications and estimates shall be posted up in the Collector's office; and should any objection be preferred by any such person within a period of one month from the date of such notice, the Collector shall communicate the objection, with his own opinion thereupon, to the Superintendent of Embankments, who shall pass such orders as may appear to him reasonable and proper. Provided, however, that if the objection refer to the construction of sluices or other new works, any person dissatisfied with the order of the Superintendent, may appeal to the Commissioner, who, subject to the orders of the Board of Revenue and of Government, may disallow the construction of the work.

Clause 2.—The accounts of the actual expense incurred in maintaining or improving embankments kept up at the expense of Zemindars or others, and in constructing and repairing sluices and making temporary water-courses or road-ways through or over any public embankment, or executing any other work the expense of which may be chargeable to individuals, shall be prepared as soon as possible after the completion of such works, and shall, as soon as such accounts shall have received the sanction of the Superintendent of Embankment, be forwarded to the office of the Collector, and may be there examined by any person interested. Notice

of the receipt of the accounts shall be posted up in the Collector's office ; and if within one month from the date of such notice, any interested person shall object to the accounts, on the ground either that the work charged for has not been performed, or that the whole sum charged has not been expended, or that the rates of charge are higher than the estimate, the Collector shall enquire into such objection, and, if the objection appear to be well founded, shall communicate the same, with his opinion thereon, to the Superintendent of Embankments. If the Superintendent concur with the Collector, he shall pass orders accordingly ; if he differ, the case shall be reported to the Commissioner, whose decision shall be final. When the objection shall have been finally disposed of, or, if no objection be preferred, when a full month shall have elapsed from the date of notice, the Collector shall proceed to levy the amount from the parties liable to pay the same, by the process which is or may be in force for the recovery of arrears of Government Revenue.

XII. *Clause 1.*—Whenever the Superintendent of Embankments shall be of opinion, that the removal of any houses, huts, or other buildings situated between a public embankment and the river is necessary, he shall make a report to that effect accompanied by a detailed statement of the houses, huts, or other buildings to be removed, to the Collector of the district in whose jurisdiction the land on which such houses, huts, or other buildings stand, is situated.

Superintendent
to report to Collec-
tor as to removal
of buildings, &c.

Clause 2.—When such report is received, the Collector shall cause a notice, containing a general description of the houses, huts, or other buildings proposed to be removed, to be affixed in some conspicuous place upon the land, and to be published by proclamation in the nearest bazar, calling on all persons claiming a right in such houses, huts, or other buildings, to appear in person or by authorized agent at a place to be specified in the notice, on or before a given date, not being less than fifteen days from the date of such proclamation, in order to make known the amount and particu-

lars of their claim to compensation to a jury to be appointed in the following manner.

Clause 3.—The Collector shall direct a Deputy Collector or a principal officer of his establishment, to proceed to the spot, and there to select three respectable inhabitants of the neighbourhood, to form with himself a Jury for determining the value of the houses, huts, or buildings, and, if any dispute should arise, the rights of the claimants.

Clause 4.—The Jury shall assess the value of each house, hut, or building separately. If in any case they differ, the value shall be assessed according to the opinion of the majority; and if they be equally divided, the Deputy Collector or other officer as aforesaid shall have a casting vote.

Clause 5.—Having completed their proceedings, the Jury shall make their award, which shall contain a schedule of the houses, huts and buildings, the amount of value assessed on each, and the name of the person or persons entitled to receive the same. The award shall be final and conclusive, and not open to question in the Civil Court. Provided always, that any person who was not present at the enquiry, or whose claim may have been set aside by the Jury, may institute a suit for the value of the property claimed by him against the person to whom payment may have been made under the award.

After award
Collector to give
notice of pay-
ment, and to re-
move buildings,
&c. in 30 days.

XIII. The Collector, on receiving the award, shall cause a notice to be affixed in some conspicuous place upon the land, with a citation calling on the parties to appear before him or the Deputy Collector or other officer aforesaid, in person or by authorized agent, at a certain time and place, and receive the amount so awarded, and warning them to remove their houses, huts, or other buildings within thirty days from the date of such notice.

Collector may
remove buildings
&c., at the cost of
the owners, in case
they neglect to do
so themselves.

XIV. If, on the expiration of the above stated period the houses, huts, or other buildings shall have not been previously removed, the Collector shall cause the same to be removed or levelled; and if any expense be incurred in re-

moving or levelling the same, the Collector may sell the materials at public auction in order to defray the charge, delivering any surplus that may remain to the owner.

XV. Whoever wilfully obstructs any duly authorized person in removing or levelling any embankment, house, hut, or other building, shall be liable to be imprisoned for any time not exceeding six months, with or without labor, at the discretion of the Magistrate, or to fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding six months, or to both.

Penalty for obstructing officer or person in discharge of duty.

XVI. Whoever wilfully, and without due authority, cuts through, or attempts to cut through, any embankment, whether public or private, or destroys, or attempts to destroy any such embankment, or opens any sluice or water-course in any such embankment, shall be liable, on conviction before a Magistrate, to be imprisoned for a term not exceeding one year, with or without labor, or to a fine not exceeding two hundred rupees, commutable, if not paid, to a period of imprisonment not exceeding one year, or to both; or, if the Magistrate be of opinion that such punishment is insufficient for the offence, he may commit the offender to the Sessions Court, in which case he shall be liable, on conviction, to imprisonment for a period not exceeding seven years, with or without labor, or to fine, or to both.

Wilful damage to embankment by cutting, &c.

XVII. Whoever damages any public embankment by making any dam or other obstruction for the purpose of diverting or opposing the current of an embanked river, without the permission of the Officer in immediate charge of the embankments, or by refusing or neglecting to remove any such dam or obstruction at the proper season, or by cutting or otherwise altering the banks of any embanked river, or by removing the earth from such embankment, or by grazing or tethering any cattle or other animals on any such embankment, or by driving stakes into, or cutting or rooting out grass growing on such embankment, or by any other wilful act destroys or diminishes the efficiency of such embank-

Penalty for other wilful damage.

ment, shall be liable, on conviction before a Magistrate, to simple imprisonment for a term not exceeding six months, or to a fine not exceeding two hundred rupees, or to both.

Jurisdiction of Deputy or Assistant Magistrate.

XVIII. Any Deputy or Assistant Magistrate may take cognizance of offences under this Act, and may punish offenders to the extent of the power conferred upon him by the Regulations of the Bengal Code, and by the Acts of the Governor General of India in Council with respect to the punishment of misdemeanors.

Provision of Sec. 13 Reg. XX. 1817, extended.

XIX. The provision of Section XIII Regulation XX of 1817 shall extend to any charge or information of the offences specified in Section XVI of this Act; and Darogahs and other Police Officers shall enquire into such offences in the mode and subject to the provisions therein prescribed.

Right of appeals.

XX. All sentences and orders passed by a Magistrate, Deputy Magistrate, or Assistant, under this Act, shall be appealable, subject to the general provisions which regulate appeals.

Interpretation.

XXI. In the construction of this Act, words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular; words importing the masculine gender only shall include females; the words "Collector" shall mean any Collector, Deputy Collector, or other Revenue Officer in independent charge of any district or portion of a district.

ACT No. XXXIII OF 1855.

EXPIRED.

GENERAL.

ACT No. XXXIV OF 1855.*

1. *Court to which application to enforce a judgment of another Court is made, not to inquire into the validity of the judgment. Proviso.*
2. *Such Court may, in certain cases, stay execution of judgment.*
3. *Court may, in such cases, take security, &c., from judgment-debtor.*

* The whole of this Act has been repealed except so far as relates to the enforcement of judgment by any Court established by Royal Charter.

4. *Order of Court pronouncing judgment to be binding upon Court enforcing the same.*

5. *Defendant discharged under this Act liable to be re-taken in execution of the judgment.*

6. *Act to be taken as part of Act XXXIII of 1852.*

AN ACT to explain and amend Act No. XXXIII of 1852.

WHEREAS doubts have arisen whether a Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII of 1852 has power to inquire into the validity of the judgment; and it is expedient to remove such doubts, and to prevent any such Court from inquiring into the validity of a judgment in respect of which it has no appellate jurisdiction, and to provide for a stay of execution when such Court thinks it reasonable that the validity of the judgment should be inquired into: It is enacted as follows:—

I. The Court to which application is made to enforce or execute a judgment under the provisions of Act No. XXXIII of 1852, shall not have power to inquire into the validity of such judgment, unless it appear, upon the face of such judgment, that the Court by which the judgment was given had no jurisdiction to pronounce the same.

Court to which application to enforce a judgment of another Court is made, not to inquire into validity of the judgment.

II. The Court to which the application is made may, upon reasonable cause being shown, stay the execution of the judgment for a reasonable time, to enable the judgment-debtor to apply to the Court by which the judgment was given, or to any Court having appellate jurisdiction in respect of the judgment or execution thereof for an order to stay the execution, or for any other order relating to the judgment or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by the Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the judgment-debtor shall have been seized under an execution, the Court which issued the execution may order restitution of the property, or the discharge of the person of the debtor, in the mean time.

Such Court may, in certain cases, stay execution of judgment.

Court may, in such cases, take security, &c., from judgment-debtor.

III. Before making an order to stay execution, or for the restitution of property, or the discharge of the judgment-debtor, under this Act, the Court may require such security from, or impose such conditions upon, the judgment-debtor, as it may deem reasonable.

Order of Court pronouncing judgment to be binding upon Court enforcing the same.

IV. Any order of the Court in which the judgment was given or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last-mentioned Court.

Defendant discharged under this Act liable to be re-taken in execution of the judgment.

V. No discharge of a defendant under the provisions of this Act shall prevent him from being re-taken in execution of the judgment.

Act to be taken as part of Act XXXIII. of 1852.

VI. This Act shall be read with, and taken as part of Act No. XXXIII of 1852.

BENGAL.
N. W. P.

ACT No. XXXV OF 1855.

1. *Portion of Act repealed.*
2. *Repeal of so much of Schedule of Act XIV 1836 as allows a drawback.*

An Act to abolish the levy of Customs Duty on the import of Cotton into the North-Western Provinces of the Presidency of Bengal.

WHEREAS it is expedient to remove all restrictions to the importation of Cotton into the North-Western Provinces in the Bengal Presidency : It is enacted as follows :—

I. So much of Section II Act No. XIV of 1843 as prescribes the levy of duties of Customs on the import of Cotton, uncleaned or cleaned, into the North-Western Provinces of the Presidency of Bengal, is hereby repealed.

II. So much of Schedule B. Act No. XIV of 1836 as allows a drawback of the land-frontier duty paid upon Cotton-wool is hereby repealed from the first day of July 1856.

ACT No. XXXVI OF 1855.*

BENGAL.
N. W. P.

1. *Particulars to be recorded by Officer on receipt of information as to unlawful manufacture of Salt, &c.*
2. *Officer thereon may summon Police and proceed to search a house for contraband Salt. Proviso.*
3. *Officer may break open doors.*
4. *Rules regarding forcible entry. Proviso.*
5. *What to be deemed contraband Salt.*
6. *Penalty, if Police Officer refuse or neglect to attend or aid in search or seizure.*
7. *Penalty for veracious search, and for giving false information.*
8. *Every case of search to be reported to superior Officers.*
9. *What to be deemed a manufacture of Salt.*

An Act to empower Officers of Customs and Land Revenue to search houses and other enclosed places for contraband Salt in the North-Western Provinces.

WHEREAS the existing laws do not empower Officers of Customs or Land Revenue in the North-Western Provinces of the Presidency of Bengal to search houses and other enclosed places for Salt manufactured or stored contrary to the provisions of Act XIV of 1843, and it is expedient to give them power to do so ; It is enacted as follows :—

1. Whenever any Collector or other Officer of Custom or Land Revenue, not being under the grade of Assistant Patrol in the Customs department, or of Naib Tehseeldar in the Revenue department, receives credible information that within his jurisdiction, Salt is unlawfully manufactured, in any dwelling-house, ware-house, or other enclosed place, or that Salt is unlawfully stored in any such house or place within the limits of Customs jurisdiction as defined by the Government of the North-Western Provinces of the Presidency of Bengal under the provision of Section III of Act XIV of 1843, he shall first record in writing the name, residence, and calling of the informant, the locality and description of the house or place where he believes the Salt to be manufactured or

Particulars to be recorded by Officer on receipt of information as to unlawful manufacture of Salt, &c.

* Extended by Act XXXI, 1861, Sections 8 and 9 to the separation and purification of Salt educed in the process of manufacturing and refining Saltpetre, and by Act XIX, 1862 to the province of Oude.

stored, and the name of the owner or occupant of such house or place or the name of the person for or by whom such Salt is manufactured or stored, and with respect to Salt stored the supposed quantity and description of such Salt with the grounds for believing the same to be contraband.

Officer thereon may summon Police and proceed to search a house for contraband Salt.

Proviso.

Officer may break open doors.

II. The said officer, after recording the particulars aforesaid, may summon from the nearest Police Station a Police Officer, not being under the grade of a Jemadar, to attend him, and with such Police Officer and informant proceed to the said house or place, and in their presence search the same for salt unlawfully manufactured or stored; provided that such search be not made between sunset and sunrise.

III. The said Officer, in company with such Police Officer, may break open the door or force an entry within the said house or place, if, upon requisition duly made the door be not opened, or admission be refused, by the owner or occupant thereof.

*IV. Repealed by Act XIX 1862, Sec. 2.**

What Salt to be considered contraband.

V. No Salt found stored in any house or place within the limits of Customs jurisdiction mentioned in Section I of this Act, not being Salt unlawfully manufactured thereat, shall be deemed contraband, unless the quantity found shall exceed five seers in weight.

Penalty if Police Officer refuses or neglects to attend or aid in

VI. Whoever, being a Police Officer summoned under Section II, fails to attend himself or to depute a subordi-

* *The following Section is substituted for the one repealed.* If the place to be searched is a zenana, or apartment in the actual occupancy of a woman, who, according to the customs of the country, does not appear in public, the Officer making the search shall give notice to such woman in such zenana or apartment, that she is at liberty to withdraw. After giving such notice and allowing a reasonable time for the woman to withdraw, and affording her every reasonable facility for withdrawing, such officer may enter such zenana or apartment for the purpose of completing the search, using at the same time every precaution consistent with these provisions for preventing the clandestine removal of any Salt. Provided, that the responsibility for the act, and the determination whether to force an entry or not, shall rest with the Officer of Customs or Land Revenue only.

nate Police Officer, not being below the grade of a Jemadar, to attend and any Police officer who after attending refuses to aid in the search for, or seizure of, contraband Salt, or in any way wilfully frustrates the object of the search or seizure, shall, on conviction before a Magistrate, be liable, besides being dismissed from office, to a fine equal to the amount of fine that would have been leviable on the owners or holders of the Salt, if it had been seized according to the information laid.

search o

VII. Any Officer of Customs or Land Revenue, vested with power to carry into effect the provisions of this Act, who, under cover thereof, searches or causes to be searched any dwelling-house, ware-house or other enclosed place, without reasonable grounds of suspicion that contraband Salt is there manufactured or stored, shall, upon conviction before the Magistrate within whose jurisdiction the offence may have been committed, be punished with fine not exceeding five hundred rupees, which fine, or any portion thereof, may be paid over to the party aggrieved, and, in default of payment of such fine, with imprisonment for a period not exceeding six months; and any person wilfully and maliciously giving false information, and so causing a search to be made in any dwelling-house, ware-house or other enclosed place, to the injury or vexation of the owners, occupants, or any other person or persons whatsoever, shall, on conviction before a Magistrate, be liable to the same penalty and also to imprisonment for a period not exceeding two years, with or without hard labour.

Penalty for any
vexatious search
or for any false
information.

VIII. Every search under this Act, whether the result thereof be the seizure of contraband Salt or otherwise, shall be reported within forty-eight hours by the Officer of Customs or Land Revenue and by the Officer of Police present at the search to their respective official superiors.

case of
to be re-
ported to superior

IX. The purification or refinement of impure Salt, obtained in the manufacture of Saltpetre, so as to produce

What to be
deemed a manu-
facture of Salt.

alimentary Salt, shall be deemed a manufacture of Salt within the meaning of this Act and of Act XIV. 1843.

BENGAL.
L. P.

ACT No. XXXVII of 1855.

1. *Certain Districts removed from the operation of the general Regulations of the Bengal Code. Proviso.*
2. *Administration of justice and collection of Revenue vested in special Officers. Proviso as to suits exceeding the value of Rs. 1,000. Collection of permanently settled Land Revenue.*
3. *Mode of administering Civil and Criminal justice.*
4. *Decisions to be final. Proviso.*
5. *Saving of laws relating to European British subjects.*
6. *Act when to take effect.*

An Act to remove from the operation of the general Laws and Regulations certain Districts inhabited by Sonthals and others, and to place the same under the superintendence of an Officer to be specially appointed for that purpose.

WHEREAS the general Regulations and Acts of Government now in force in the Presidency of Bengal are not adapted to the uncivilized race of people called Sonthals, and it is therefore expedient to remove from the operation of such laws the district called the Damun-i-Koh, and other districts which are inhabited principally by that tribe: It is enacted as follows:—

Certain Districts removed from the operation of the general Regulations of the Bengal

I. *Clause 1.*—The districts described in the Schedule* to this Act are hereby removed from the operation of the general Regulations of the Bengal Code and of the laws passed by the Governor General of India in Council, except so far as is hereinafter provided; and no law which shall hereafter be passed by the Governor General of India in Council shall be deemed to extend to any part of the said districts, unless the same shall be specially named therein. Provided that nothing herein contained shall extend to or affect any case now pending in any Court, nor remove any part of the said districts from the operation of Regulation

Proviso.

* See Act X, 1857, by which this Schedule is repealed, and another substituted in its place, to which all the provisions of this Act are made applicable.

X of 1804 of the Bengal Code ; nor shall this Act affect any Revenue Settlement, nor any law relating to the recovery of permanently settled Land Revenue due under the same, nor any law relating to the sale of lands for arrears of Revenue, or relating to Putnee Talooks, or to the sale thereof for arrears of rent, nor any law relating to Mutations or Butwara, or to any other matter to which the Lieutenant Governor of Bengal shall at any time notify in the *Calcutta Gazette* that the General Laws and Regulations shall extend.

Clause 2.—The said Districts shall be placed under the superintendence and jurisdiction of an Officer or Officers to be appointed in that behalf by the Lieutenant Governor of Bengal, and such Officer or Officers shall be subject to the directions and control of the said Lieutenant Governor.

II. The administration of Civil and Criminal justice, and the collection of the Revenue, not being permanently settled Land Revenue, within the said districts, are hereby vested in the Officer or Officers to be so appointed. Provided that all Civil suits in which the matter in dispute shall exceed the value of one thousand Rupees, shall be tried and determined according to the general Laws and Regulations in the same manner as if this Act had not been passed. Provided also, that all permanently settled Land Revenue shall be collected and paid at the same places and in the same manner as if this Act had not been passed.

III. In the administration of Civil and Criminal justice, the Officer or Officers appointed under this Act shall be guided by the spirit and principle of the Civil and Criminal Laws administered in the Courts of the East India Company in the Presidency of Bengal, but shall not be bound to take the *futwa* of a Law Officer; and he or they may hold his or their Courts either within the said district or at any place or places that may be appointed for that purpose by the said Lieutenant Governor; and any person

Administration
of justice and col-
lection of Revenue
vested in Officers.

Proviso.

Mode of admin-
istering Civil and
Criminal justice.

liable to be imprisoned in any Civil or Criminal jail, may be imprisoned in any Civil or Criminal jail, as the case may be, which the said Lieutenant Governor may order, whether the same be in or out of the said district.

Decisions to be final.

Proviso.

IV. *Clause 1.*—All decisions in Civil suits and sentences in Criminal cases, which shall be passed by such Officer or Officers, to the extent of the powers which may be from time to time conferred upon them respectively by the Lieutenant Governor of Bengal, according to the provisions of this Act, shall be final. Provided that no sentence of death, passed by any such Officer, shall be carried into effect until it shall have been confirmed by the Sudder Court, and provided also that it shall be lawful for the said Lieutenant Governor to direct that an appeal shall lie in any class of Civil suits of Criminal trials from any Officer appointed under this Act to any other Officer appointed under the same, and also to direct the Officer or Officers appointed under this Act to refer to the Sudder Court for sentence any class of Criminal trials.

Clause 2.—Upon the receipt of any Criminal trial referred to the Sudder Court under Clause 1 of this Section, the said Court shall, without submitting the proceedings for the futwa of their Law Officer, proceed to pass final judgment, or such other order as may seem to the Court requisite and proper, in the same manner as if the trial had been referred in ordinary course by a Sessions Judge; and in any case in which sentence of death passed by an Officer under this Act shall be transmitted to the Sudder Court for confirmation, the said Court may either confirm the same, or pass such other judgment warranted by law, as may appear to the said Court to be just and proper.

Saving of laws relating to European British subjects.

V. Nothing in this Act shall alter the laws now in force with respect to the amenability of European British subjects to any Court or Officer for any act of a criminal nature committed within the district.

VI. This Act shall take effect from such day as shall be fixed for that purpose by the said Lieutenant Governor by notice to be published in the *Calcutta Gazette*.

Act when to take effect.

SCHEDULE.

Repealed by Act X, 1857.

ACT No. XXXVIII OF 1855.

EXPIRED.

ACT No. I OF 1856.

Repealed by Act XVII, 1862.

ACT No. II. OF 1856.

Repealed by Act XVII, 1862.

ACT No. III OF 1856.

BENGAL.
L. P.

1. *Powers and duties of Commissioner of Abkaree vested in Commissioner of Revenue.*

2. *Abkaree officers empowered to make arrests in certain cases.*

An Act to amend Act No. XI of 1849 and Act No. XIX of 1852.

WHEREAS the office of Commissioner for the superintendence of the Abkaree Revenue, heretofore existing under Act No. XXV of 1840, has been abolished, and it is expedient to make provision for the exercise of the powers and duties vested by Act No. XI of 1849 in the Commissioner of Abkaree; and whereas it is also expedient to declare the powers of Abkaree Officers to make arrests in certain cases; It is enacted as follows :—

I.* The Commissioner of Revenue of the Division within which the Town of Calcutta is or may be situated, shall

* See Act XXI, 1856, Sec. 3.

possess the powers and perform the duties vested by Act No. XI of 1849 in the Commissioner of Abkaree.

II. Whenever an Abkaree Officer shall, under Section XIX, Act XI of 1849 or Section XIX, Act XIX of 1852, seize any spirituous or fermented liquors or intoxicating drugs, as liable to confiscation, he may also arrest the person in whose possession such liquors or drugs may be found; and all the provisions of the aforesaid Acts relative to arrests shall be applicable to arrests made under this Act.

ACT No. IV of 1856.

Repealed by Act XVII, 1862.

ACT No. V of 1856.

Repealed by Act XX, 1859.

ACT No. VI of 1856.

Repealed by Act IX, 1857.

BOMBAY.

ACT No. VII of 1856.

1. *Governor in Council may authorize the Police to take possession of private tanks, &c.*
2. *Removal of cattle.*
3. *Penalty for obstructing Police, &c.*
4. *Compensation to owners of private tanks and other persons injured.*

An Act to enable the Bombay Government to provide for a due supply of water for public use in the Islands of Bombay and Colaba.

WHEREAS it is necessary to prevent the waste of drinking water in the Islands of Bombay and Colaba, and to em-

power the Government to prevent the consumption of such water otherwise than as drinking water, and to make an economical disposition of the drinking water in wells and tanks, in order to provide for a due supply of such water for the public during the present year; It is enacted as follows:—

I. It shall be lawful for the Governor of Bombay in Council, in case he shall deem the same to be absolutely necessary for the public safety, at any time before the 1st of August next, to direct the Police to take possession of all or any of the tanks and wells, whether private property or not, throughout the said Town and Islands, containing drinking water, not being tanks or wells in or under an occupied house and to deepen and improve the same, and to retain possession thereof until the said 1st of August, and during such period to prevent the consumption of the water thereof otherwise than as drinking water, and to superintend the distribution of the water thereof under the orders of Government, or of Officers appointed by Government; and it shall be lawful for the Police, when so ordered, to enter upon the premises in which any such tank or well ordered to be taken possession of by them is situate, and to take possession of the same, and to prevent the consumption of the water thereof otherwise than as drinking water, and to distribute the water thereof in such manner, and in such quantities, and on such conditions as shall from time to time be ordered by Government.

Governor in Council may authorize the Police to take possession of private tanks, &c.

II. It shall also be lawful for the said Governor in Council to direct by proclamation the removal of any Cattle from any part of the said Islands situate to the South of a line drawn from Love Grove on the West to Chinchpoogle on the East shore, and to authorize the Police to enforce the same by seizing and conveying to a public pound any Cattle found to the South of the said line; and the Cattle so seized and the owners thereof shall be dealt with according to the law for the time being in force for the seizure and sale of stray Cattle and the punishment of the owners.

Removal of Cattle.

Penalty for obstructing Police, &c.

III. Whoever impedes or obstructs the Police in the discharge of their duty under this Act, or prevents the public or any individual from coming on premises in which any private tank or well ordered to be taken possession of by the Police is situate, for the purpose of taking such water therefrom as shall be allowed by the Police, or prevents the public or any individual from taking and removing such water; and whoever wilfully does any act whereby the water of such well or tank shall be rendered unfit for drinking, or takes water in excess of the quantity allowed, or makes use of the water in any manner contrary to such orders of Government as shall be publicly notified—shall be liable, on conviction in a summary manner before a single Magistrate of Police, to a fine not exceeding one hundred Rupees, or imprisonment for a period not exceeding thirty days.

Compensation to owners of private tanks and other persons injured.

IV. Every owner or tenant of any private tank or well taken for the use of the public under this Act, and every person who shall sustain loss or injury by reason of any interference with a private right under the provisions of this Act, shall be entitled to claim compensation from the Municipal fund of Bombay. In case of any such claim, the amount of such compensation shall be in the first place fixed and tendered by a Committee appointed by the Governor in Council; and in case of the right to compensation being denied, or of no such tender being made, or of the party or parties claiming compensation being dissatisfied with the amount tendered, such party or parties shall be at liberty to sue the Board of Conservancy in the name of their Clerk for compensation in the Supreme Court or the Court of Small Causes in Bombay as the case may be, and the costs of every such suit shall be in the discretion of the Court trying the same; and any sum of money recovered in any such suit shall be paid out of the Municipal Fund.

ACT No. VIII OF 1856.

**BOMBAY
and
MADRAS.**

1. *Laws repealed.*

2. *Supervision of Gaols vested in the Governor in Council, who may appoint a person or persons to inspect and superintend them.*

An Act for the better control of the Gaols within the Presidencies of Fort St. George and Bombay.

WHEREAS it is expedient to make provision for the better control of the Gaols within the Presidencies of Fort St. George and Bombay : It is enacted as follows :—

I. Clause Fifth Section VIII Regulation XV, 1803, and Sections II and III Regulation X, 1832 of the Madras Code : so much of Section XLIX Act VII of 1843 as authorizes Sessions Judges to visit the Gaols therein mentioned and to pass orders regarding the treatment or accommodation or security of the prisoners ; Section XXXII Regulation VII, 1802 of the said Code ; and so much of Section VII Regulation X, 1832 of the same as is referred to in Section XLIX Act VII of 1843 aforesaid ; and Clause Third Section XVI Regulation XIII, 1827 of the Bombay Code : and so much of Clause Fourth Section XXVII of the same Regulation as enacts that the Court of Sudder Fouzdary Adawlut shall furnish information to Government of the state of the Gaols in each Zillah ; and Clause Fourth Section VII Regulation XIV, 1827 ; and Sections IV and V Regulation XVI, 1828 of the same Code—are hereby repealed.

II. From and after the passing of this Act the control of all Gaols in each of the said Presidencies shall be vested in the Governor in Council ; and it shall be lawful for the said Governor in Council, with the previous sanction of the Governor General of India in Council to the creation of the office, to appoint such person or persons as he shall think fit, to inspect and superintend the said Gaols subject to the orders of the said Governor in Council, and to vest in such person or persons such power and authority for the purposes aforesaid as to the said Governor in Council may seem proper.

GENERAL.

ACT No. IX OF 1856.

1. *Rights under Bills of Lading to rest in consignee or endorsee.*
2. *Not to affect right of stoppage in transitu or claims for freight.*
3. *Bill of Lading in hands of consignee, &c., conclusive evidence of the shipment as against Master, &c. Proviso.*

An Act to amend the law relating to Bills of Lading.

WHEREAS by the custom of Merchants a Bill of Lading of goods being transferable by endorsement, the property in the goods may thereby pass to the endorsee, but nevertheless all rights in respect of the contract contained in the Bill of Lading continue in the original shipper or owner, and it is expedient that such rights should pass with the property ; and whereas it frequently happens that the goods in respect of which Bills of Lading purport to be signed have not been laden on board, and it is proper that such Bills of Lading in the hands of a *bonâ fide* holder for value should not be questioned by the Master or other person signing the same, on the ground of the goods not having been laden as aforesaid : It is enacted as follows :—

I. Every consignee of goods named in a Bill of Lading, and every endorsee of a Bill of Lading to whom the property in the goods therein mentioned shall pass upon or by reason of such consignment or endorsement, shall have transferred to and vested in him all rights of suit, and be subject to the same liabilities in respect of such goods, as if the contract contained in the Bill of Lading had been made with himself.

II. Nothing herein contained shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee by reason or in consequence of his being such consignee or endorsee, or of his receipt of the goods by reason or consequence of such consignment or endorsement.

III. Every Bill of Lading in the hands of a consignee or endorsee for valuable consideration, representing goods to have been shipped on board a vessel, shall be conclusive evidence of such shipment as against the Master or other person signing the same, notwithstanding that such goods or some part thereof may not have been so shipped, unless such holder of the Bill of Lading shall have had actual notice at the time of receiving the same that the goods had not in fact been laden on board. Provided that the Master or other person so signing may exonerate himself in respect of such misrepresentation, by showing that it was caused without any default on his part, and wholly by the fraud of the shipper, or of the holder, or some person under whom the holder claims.

ACT No. X OF 1856. .

Repealed by Act XXIX, 1861.

ACT No. XI. OF 1856.

GENERAL.

1. *Penalty on Master in certain cases if a deserter be concealed on board his ship. Proviso. Charge may be in the alternative.*
2. *Jurisdiction.*
3. *Conviction to be quashed on merits only : form of conviction, &c.*
4. *Saving of proceedings under Act No. XIV of 1849. Proviso.*
5. *Commanding Officer may issue warrants for apprehension of deserters.*
6. *Warrant to whom to be addressed, and by whom to be executed.*
7. *Persons apprehended how to be dealt with, &c.*

An Act for the better prevention of desertion by European Soldiers from the Land Forces of Her Majesty and of the East India Company in India.

WHEREAS it is expedient to make better provision for apprehending and detaining European deserters from the Land Forces in the service of Her Majesty and of the East India Company in India, and for punishing persons

who aid and encourage such deserters : It is enacted as follows :—

Penalty on the Master if a deserter be found concealed on board his ship.

I. If it shall appear that any Officer or soldier, being a deserter from the said Forces, has been concealed on board any merchant vessel, and that the master or person in charge of such vessel for the time being, though ignorant of the fact of such concealment, might have known of the same but for some neglect of his duty as such master or person, or for the want of proper discipline on board his vessel, such master or person shall be liable to a fine not exceeding five hundred Rupees. Provided always, that no conviction for such offence, as is hereinbefore described, shall be lawful, unless the same shall be stated in the charge which the party is called upon to answer ; and in such charge it shall be lawful to state in the alternative that the party has either knowingly harboured or concealed a deserter on board his vessel, or has, by neglect of duty or by reason of the want of proper discipline on board the vessel, allowed such deserter to be so concealed.

Jurisdiction.

II. Any person, whether a European British subject or not, who shall be guilty of an offence punishable under this Act, shall be punishable for the same by any Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay, or for any of the Settlements of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate in any port within the territories of the East India Company, within whose jurisdiction the offence may have been committed, or such person may have been apprehended or found, whether the offence shall have been committed within the local limits of the jurisdiction of such Officer or not ; and any person hereby made punishable by a Justice of the Peace shall be punishable on summary conviction.

Conviction to be quashed on the merits only.

III. No conviction, order, or judgment of any Justice of the Peace shall be quashed for error of form, or procedure,

but only on the merits ; and it shall not be necessary to state on the face of the conviction, order or judgment, the evidence on which it proceeds ; but the depositions taken, or a copy of them, shall be returned with the conviction, order or judgment, in obedience to any writ of *certiorari* ; and if no jurisdiction appears on the face of the conviction, order or judgment, but the depositions taken supply that defect, the conviction, order or judgment, shall be aided by what so appears in such depositions.

IV. Nothing in this Act contained shall prevent any Justice of the Peace, Magistrate, or other officer having authority in that behalf, from committing for trial any person who shall be charged with an offence punishable under Act No. XIV of 1849, or any other Act hereafter to be in force, notwithstanding that such offence may be also punishable under this Act, provided that no proceedings shall have been had against such person in respect of the same offence under this Act.

Saving of proceedings under Act XIV 1849.

V. Whenever, on information given on oath or solemn affirmation, where by law a solemn affirmation may be used instead of an oath, to the Commanding Officer of any fort, garrison, station, regiment, or detachment, at any port or place within the territories of the East India Company, in which no person lawfully exercising magisterial powers can be found, which oath or affirmation the several persons above-named shall severally under this Act have power to administer ; or whenever, on such information as aforesaid given to any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, having jurisdiction within such port or place, there shall appear reason to suspect that any European Officer or Soldier belonging to the said Force, who may have deserted or be absent without leave, is on board any ship, vessel or boat, or is concealed on shore at any such port or place within the territories of the East India Company, it shall be lawful for such Commanding Officer or Justice of the Peace, Magistrate, Joint Magistrate, or person

Commanding Officer may issue warrants for apprehension of deserters.

lawfully exercising the powers of a Magistrate as aforesaid, to issue a warrant authorizing the person or persons to whom such warrant may be addressed, to enter into and search, at any time of the day or night, any such ship, vessel or boat, or any house or place on shore, and to apprehend any such Officer or Soldier, and to detain him in custody in order to his being dealt with according to law.

Warrant to whom to be addressed and by whom to be executed.

VI. The warrant to be issued under the preceding Section may be addressed to any European Officer or Soldier of the said Forces, or to all constables, peace officers, and other persons who may be bound to execute the warrant of any Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, and, acting in the execution of this Act; and all such persons shall be bound to execute, perform, and obey such warrant.

Persons apprehended how to be dealt with.

VII. Every person who shall be apprehended under any warrant under the 5th Section of this Act, shall be brought without delay before a Justice of the Peace, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, in or near the place wherein such person shall have been arrested, who shall examine such person, and, if he shall be satisfied, either by the confession of such person or the testimony of one or more witness or witnesses or by his own knowledge, that such person is a deserter from the said Forces, shall cause him to be delivered, together with any depositions and papers relative to the case, to the Commanding Officer of the regiment, corps, or detachment to which he shall belong, if the same shall be in or near the place of such arrest, or if otherwise, then to the Commanding Officer of the nearest military station, in order that he may be dealt with according to law.

ACT No. XII OF 1856.

1. *Regulations repealed.*
2. *Civil Court Ameens to be appointed.*
3. *Civil Court Ameens by whom to be appointed, and to what Courts to be attached.*

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4. *Declaration to be made by Civil Court Ameens.*
 5. *Duties of Civil Court Ameens.*
 8. *Expense of Civil Court Ameens how to be charged.*
 9. *When employed to sell property, deduction to be made from proceeds. Expenses, if no sale takes place.*
 10. *Civil Courts in the North-Western Provinces may employ Revenue Officers in certain cases.*

An Act to amend the law respecting the employment of Ameens by the Civil Courts in the Presidency of Fort William.

WHEREAS the law by which the Civil Courts are authorized to employ Ameens upon local investigations is defective and requires amendment; and whereas, in consequence of the extended jurisdiction which has been given to Moonsiffs and the change which has been made in the constitution of the office, it is no longer expedient that Moonsiffs should be employed in the attachment and sale of personal property, nor, except on rare and special occasions, in any of the duties enumerated in Sections L, LI, and LIII, Regulation XXIII, 1814; and it is necessary to make provision for the performance of those duties by other agency: It is enacted as follows:—

I. Section XVII Regulation IV, 1793, Section XVIII Regulation III, 1803, and Clauses 2 and 3 of Section LI, and Section LII, Regulation XXIII, 1814, are repealed.

Regulations re-
pealed.

II. In each district Officers to be designated Civil Court Ameens shall be appointed for the purposes of this Act, and shall be remunerated by fixed monthly salaries. The number of Ameens to be employed in each district, and the salaries to be allowed to them, shall be determined by the Local Government, with the sanction of the Governor General of India in Council.

Ameens to be ap-
pointed.

III. The Civil Court Ameens shall be appointed by the Judge of the district with the sanction of the Court of Sudder Dewanny Adawlut, and the Judge shall from time to time attach them to the several Courts of the District

Civil Court
Ameens by whom
to be appointed
and to what Courts
to be attached.

according as the state of business may require. Provided that an Ameen attached to any particular Court may, with the sanction of the Judge, be employed occasionally by any other Court.

Declaration to
be made by Civil
Court Ameens.

IV. Before entering upon the duties of their office, the Civil Court Ameens shall subscribe a declaration in the following form :—

I, A. B., appointed to the office of Civil Court Ameen, solemnly declare that, in the performance of the duties of my office, I will act according to the best of my abilities and judgment, without partiality, favor, or affection; and that I will not directly or indirectly receive for my own benefit, or knowingly permit any other person to receive on my behalf, any money, effects, or property on account of any duty which I may have to execute, except the authorized allowances of my office.

Duties of Civil
Court Ameens.

V. Subject to such general directions and restrictions as may from time to time be prescribed by the Sudder Court, the Civil Court Ameens may be employed in any of the following duties :—

1. In investigating or adjusting accounts in any suit or other judicial proceeding.

2. In making local investigations when the Court may deem investigation on the spot to be requisite and proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of mesne profits or damages, in any suit or other judicial proceeding.

3. In delivering over possession of lands, houses, and other immoveable property, in execution of decrees or orders of Court.

4. In the sale of moveable property, and of houses, gardens, and other immoveable property of the kind described in Section III, Regulation VII, 1825.

5. In ascertaining the sufficiency of sureties and the means of persons suing in *forma pauperis*.

VI. *Repealed by Act X, 1861.*

VII. *Repealed by Act X, 1861.*

VIII. Whenever a Civil Court Ameen may be employed on any duty connected with a pending suit, or the execution of a decree, except the sale of property,* the Court shall estimate the time which the duty may be expected to occupy, and shall charge for the expense of the Ameen such fixed rate *per diem* as may be determined by the Sudder Court. The amount shall be paid into Court by the party at whose instance or for whose benefit the Ameen is deputed, and shall be added to the costs of suit.

Expense of Civil Court Ameens how to be charged.

IX. When a Civil Court Ameen shall be employed to sell property, a deduction at the rate of one anna in the Rupee shall be made from the proceeds of the sale. If no sale takes place by reason of the claim being satisfied, or for any other cause, a charge shall be made for the expenses of the Ameen according to the time he may be employed. A deposit to meet this charge, calculated in the manner prescribed in the preceding Section, shall be made before the Ameen is deputed, and shall be returned to the depositor if the sale takes place. All sums paid for the employment of Ameens, and all sums deducted from the proceeds of sales, shall be credited to Government.

When employed to sell property, deduction to be made from proceeds. Expenses, if no sale takes place.

X. Nothing contained in this Act shall be held to prohibit the Civil Courts in the North-Western Provinces of the Presidency of Fort William from making use of the agency of the Revenue Officers in investigations and adjustments of accounts connected with land paying revenue to Government under such general directions as may from time to time be prescribed by the Sudder Court. Whenever a Tuhseeldar, or a Peshkar, shall be employed in any such investigation or adjustment under the orders of a Civil Court, he shall possess all the powers vested in Civil Court Ameens by Section VII of this Act; and the provisions of

Civil Courts in the N. W. P., may employ Revenue Officers in certain cases.

the said Section shall be applicable to the proceedings held by such Officer.

**PRESIDENCY
TOWNS.**

ACT NO. XIII OF 1856.*

1. *Acts, &c., repealed.*
2. *Interpretation.*
3. *Appointment and removal of Commissioner of Police.*
4. *Appointment of Deputies to the Commissioner of Police.*
5. *Commissioner of Police shall not ordinarily be a Magistrate.*
6. *Commissioner of Police to be a Justice of the Peace, but to act only in certain cases.*
7. *Constitution of Police Force.*
8. *The Police Force to be under the control of the Commissioner. Rules for the Government of the Force to be made by the Commissioner and approved by Government.*
9. *No Peace Officers in the Straits Settlement to be appointed by the Court of Judicature.*
10. *Appointment, &c., of the Police Force to rest with the Commissioner.*
11. *Power of Commissioner to fine members of the Police Force.*
12. *Additional penalties for members of the Police Force for neglect of duty, &c.*
13. *Members of Police Force to receive Certificates vesting them with the powers of a Constable.*
14. *Penalty for dismissed members of Police Force not delivering up clothing, accoutrements, &c.*
15. *Police Superannuation Fund.*
16. *Superannuation pensions to members of the Police Force. Proviso.*
17. *Allowances to Officers disabled by wound, &c., in execution of duty.*
18. *Commissioner of Police may appoint special Constables when necessary.*
19. *Appointment of additional Constables on the application of private individuals. Proviso.*
20. *Police Districts. Appointment of Police Magistrates.*
21. *Police Officers to be in attendance at the Police Courts.*
22. *Service of criminal process by Police Officer.*
23. *Execution of warrants.*

* Act XLVIII, 1860, is to be taken with and read as part of this Act.

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26. *Trial and punishment of offences.*
 27. *Stealing or receiving stolen property not exceeding the value of fifty Rupees.*
 28. *Embezzlement, &c.*
 29. *Summary conviction of accessaries.*
 30. *Wrongful appropriation of property found. If the property exceed the value of 50 Rupees, the offender may be committed for trial and punished as if convicted of larceny.*
 31. *In Bombay certain offenders may be committed for trial before the Court of Petty Sessions.*
 35. *Fraudulent possessions of stolen property.*
 36. *Disposal of stolen property in custody of Police.*
 37. *Cases of assault, forcible entry or injury, not being felony.*
 41. *Disturbing an assembly engaged in religious worship.*
 42. *Trespassing with intent to disturb any person in the performance of, or to insult, any religious ceremony, &c.*
 44. *Taking or enticing away women or female children under the age of 14 years. Magistrate may punish offender summarily, or commit for trial.*
 45. *Magistrate may compel immediate restoration of such woman or child.*
 46. *Apprehension and punishment of reputed thieves, &c.*
 47. *Penalty for carrying arms without authority.*
 48. *Penalty for taking spirits into Barracks or on board vessels of war.*
 49. *Penalty for taking spirits, &c., into Jail.*
 53. *Disorderly conduct in houses of public entertainment.*
 54. *Penalty for harbouring and concealing deserters from merchant vessels.*
 56. *Penalty for owing, or keeping or being employed in a gaming-house, &c.*
 57. *Penalty for being found playing in a gaming-house.*
 58. *Commissioner of Police or Magistrate may grant warrants to Police Officers to enter a gaming-house for the purpose of search and seizure.*
 60. *On conviction for keeping a gaming-house instruments of gaming to be destroyed, &c.*
 61. *Proof of playing for stakes unnecessary.*
 62. *Witnesses indemnified.*
 63. *Act not to apply to certain games.*
 64. *Penalty for cheating at games.*
 65. *Portion of fine may be paid to informer.*
 66. *Gambling in the streets.*

68. *Pawn-brokers and money-changers to report stolen property under a penalty for neglect.*

69. *If stolen articles be altered or defaced by broker, after information of the theft, he shall be deemed a receiver of stolen goods.*

70. *Manufacture or possession of Gunpowder.*

71. *Licenses by Commissioner of Police for sale and deposit of Gunpowder, &c.*

72. *Licenses for conveying and removing Gunpowder.*

73. *Commissioner of Police may issue warrant to search for Gunpowder, &c.*

74. *Act not to apply to Government powder, &c.*

77. *The regulation of public processions, &c., and of carriages and persons at places of public resort.*

80. *Penalty for neglecting or delaying to report accident to a registered boat attended with loss of life.*

83. *Penalty for destroying, &c, lamp-post, &c.*

84. *Penalty for committing a nuisance in streets.*

85. *Beggars.*

86. *Police Officer may arrest without warrant on view of offence.*

87. *Police Officers may take into custody, without warrant, persons charged with aggravated assault recently committed.*

88. *Apprehension of offenders by private individuals.*

89. *Penalty for assaulting or forcibly resisting a person who apprehends under the preceding Section.*

90. *Persons taken into custody by a Police Officer without warrant may be detained in Station House, until brought before a Magistrate or bailed.*

91. *Power to take recognizances at the Station House upon certain charges.*

92. *Condition of recognizance.*

93. *On suspicion of goods being stolen or unlawfully obtained, Commissioner of Police or Magistrate may grant search-warrant.*

93. *Power to search houses for stolen property, without a warrant in certain cases.*

94. *Magistrate may proceed by summons, and if party does not appear, may issue warrant. In cases not of a criminal nature, Magistrate may proceed in the absence of the person summoned. Prosecution for such offences to be commenced within three months.*

96. *How summons may be served.*

97. *Magistrate may issue warrant without summons when grounds for doing so are stated on oath.*

98. *Magistrate may enforce attendance of witnesses. And administer oath. Punishment of witness refusing to answer.*

100. *Perjury.*

101. *Power to Magistrates to adjourn the hearing of cases and commit defendant, or suffer him to go at large, or discharge him upon his own recognizance. In cases not of a criminal nature, Magistrate may proceed with the further hearing in the absence of parties. In all cases if prosecutor fails to appear, complaint may be dismissed.*

102. *Power to award costs on hearing of information or complaint.*

103. *Amends may be awarded for charges made on insufficient grounds.*

104. *Compromise.*

106. *Distress not unlawful for want of form, &c.*

107. *If Magistrate certifies the non-appearance of a person pursuant to his recognizance, the sum acknowledged may be recovered as a fine.*

108. *Recognizances for keeping the peace or for good behaviour.*

109. *Powers of Court of Petty Sessions at Bombay as to the issue of summonses and other process.*

110. *Form of judgment.*

111. *Conviction to be quashed on merits only. Form of conviction, &c.*

113. *Moveable property of persons dying intestate under two hundred Rupees in value may be taken charge of by Police, and delivered to party claiming to be entitled thereto.*

114. *Commissioner of Police may take security for due administration and distribution of such property. Saving of right of other person claiming.*

116. *Stray dogs to be killed at certain appointed periods.*

117. *Foreign Deserters.*

118. *Commencement of Act.*

An Act for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

WHEREAS it is expedient to consolidate and amend the laws relating to the Police, and the administration of justice in the Police Courts, of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca; It is enacted as follows :—

I. The several Acts, and Rules, Ordinances and Regulations, mentioned in the Schedule hereunto annexed, are

Acts, &c., repealed.

hereby repealed, except so far as they repeal the whole or any part of any other Act, or Rule, Ordinance and Regulation, and except as to any act or offence which shall have been done or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation; and Sections II and IV of Act XXII of 1837, and Sections XXII, XXXI, XXXII, XXXIII, XXXV, and XXXVII of Act XIX of 1852, shall be read as if the words "a Magistrate of Police" were substituted therein for the words "the Superintendent of Police or one of his Deputies."

Interpretation

II. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, (that is to say)—

The expression "Local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the territories in the possession and under the government of the East India Company, in which the Town or Station is situated.

The word "Magistrate" shall mean any Magistrate of Police acting for the place where the matter, requiring the cognizance of a Magistrate, arises.

The word "Town" shall include all places within the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature at Calcutta, Madras, and Bombay.

The word "Station" shall mean any one of the Stations of Prince of Wales' Island, Singapore, and Malacca, and the dependencies thereof.

The word "property" shall include any chattel, money, or valuable security.

The term "Her Majesty's Supreme Court of Judicature" shall include the Court of Judicature of the Settlement of Prince of Wales' Island, Singapore, and Malacca, and every division of that Court.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The word "person" shall include a corporation.

The word "month" shall mean calendar month.

The word "oath" shall include any affirmation or declaration lawfully substituted for an oath.

The word "cattle" shall, besides horned cattle, include horses, asses, mules, sheep, goats, and swine.

III. The administration of the Police in each of the said Towns and Stations shall be vested in an officer to be styled the Commissioner of Police for such Town or Station, who shall from time to time be appointed by the Local Government, and may be removed by the same authority, and who shall receive such salary as the Governor General of India in Council shall allow. All powers which by law are given to a Superintendent of Police in any such Town or Station shall be vested in the Commissioner of Police, except as is otherwise provided by Section I of this Act.

Appointment
and removal of
Commissioner of
Police.

IV. The local Government, with the sanction of the Governor General in Council, may from time to time appoint one or more Deputies to the Commissioner of Police, who shall be competent to perform any of the duties assigned to that officer under his orders. The Deputy Commissioners may be removed at any time by order of the local Government.

Appointment
of Deputies to the
Commissioner of
Police.

V. The Commissioner of Police shall not ordinarily be a Magistrate of Police under this Act, but, with the sanction of the Governor General of India in Council, may be appointed to that office, when the local Government, for special reasons, may deem it expedient.

Commissioner
of Police shall not
ordinarily be a
Magistrate.

VI. The Commissioner of Police shall be appointed a Justice of the Peace, but, unless he is vested with the jurisdiction of a Magistrate of Police, he shall act as a Jus-

Commissioner
of Police to be a
Justice of the
Peace, but to act
only in certain
cases.

tice only so far as may be necessary for the preservation of the peace, the prevention of crimes, and the detection, apprehension, and detention of offenders in order to their being brought before a Magistrate of Police; and so far as may be necessary for the performance of the duties assigned to the Commissioner by this Act. The Deputies to the Commissioner of Police may be appointed Justices of the Peace, and if so appointed, shall act in that capacity, subject to the above restriction.

**Constitution of
Police Force.**

VII. For each of the said Towns and Stations there shall be a Police Force, which shall consist of such number of officers and men, and shall be otherwise constituted in such manner, as shall be from time to time ordered by the local Government, with the sanction of the Governor General of India in Council.

**The Police Force
to be under the
control of the
Commissioner.
Rules for the go-
vernment of the
Force to be made
by the Commis-
sioner and ap-
proved by Govern-
ment.**

VIII. The Police Force shall be under the exclusive direction and control of the Commissioner of Police, who may from time to time, subject to the approbation of the local Government, frame such orders and regulations as he shall deem expedient, relative to the general government of the force, the places of residence, the classification, rank, distribution, and particular service of the several members thereof; their inspection; the description of arms, accoutrements, and other necessities to be furnished to them; and all such other orders and regulations relative to the said Police Force as the said Commissioner shall, from time to time, deem expedient for preventing neglect or abuse, and for rendering such force efficient in the discharge of all its duties.

**No Peace Officers
in the Straits'
Settlement to be
appointed by the
Court of Judica-
ture.**

IX. In the Settlement of Prince of Wales' Island, Singapore, and Malacca, no constable or subordinate Peace Officer, or other person appointed to perform duties of Police, shall be appointed by the Court of Judicature of the Settlement, or by any division of that Court, at their General and Quarter Sessions, or otherwise.

**Appointment,
&c., of the Police
Force to rest with**

X. The appointment of the members of the Police Force shall rest with the Commissioner of Police, and he

may at any time suspend or dismiss any member of the force, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

the
Commissioner.

XI. For any lesser breach of discipline, or other misconduct not requiring the suspension or dismissal of the offender, a member of the Police Force may be fined by the Commissioner in any sum not exceeding one-half of his monthly pay.

Power of Commissioner to fine members of the Police Force.

XII. For neglect or violation of duty in his office, and for any breach of the orders and regulations framed as aforesaid, every member of the Police, besides being suspended or dismissed from his employment at the discretion of the Commissioner, shall be liable, on conviction before a Magistrate, to a fine not exceeding one hundred Rupees (which may be deducted from any salary then due to such offender), or to imprisonment with or without hard labor for any time not exceeding three months.

Additional penalties for members of the Police Force for neglect of duty, &c.

XIII. Repealed by Act XLVIII. of 1860.

XIV. Every member of the Police Force shall receive on his enrolment a Certificate (A), under the signature of the Commissioner of Police, by virtue of which he shall be vested with the powers, functions, and privileges of a Constable. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed; or otherwise removed from employment in the force.

Members of Police Force to receive Certificates vesting them with the powers of a Constable.

XV. Repealed by Act XLVIII. of 1860.

XVI. Every member of the Police Force, who shall be dismissed from, or shall cease to hold and exercise his office, and who shall not forthwith deliver up his Certificate, and all the clothing, accoutrements and appointments and other necessaries which may have been supplied to him for the execution of his duty, to the Commissioner, or to such person and at such time and place as shall be directed by the said Commissioner, shall be liable, on conviction before a Magistrate, to imprisonment, with or without hard labor, for any time not exceeding one month. And it shall be lawful for

Penalty for dismissed members of Police Force not delivering up clothing, accoutrements, &c.

the Commissioner, or for any Magistrate, to issue his warrant to search for and seize all the clothing, accoutrements, appointments, and other necessities which shall not be so delivered over, wherever the same may be found.

Police Super-
annuation Fund.

XVII. There shall be deducted from the pay of every member of the Police Force, of a class not entitled to the benefit of the Uncovenanted Service Pension Rules, a sum after such rate as the Local Government shall direct, not being a greater rate than half an anna in the Rupee, which sum so deducted, and also the monies accruing from stoppages from members of the Police Force during absence from sickness or other cause, and fines imposed on members thereof for misconduct, and from fines imposed by Magistrates upon drunken persons, or for assaults upon Police Officers, and all monies arising from the sale of worn or cast-off clothing or other articles supplied for the use of the Police, shall from time to time be invested in such manner and in such securities as the local Government may in writing direct, and the interest and dividends thereof, or so much of the same as shall not be required for the purposes hereinafter mentioned, shall be likewise invested as aforesaid, and accumulate, so as to form a Fund, to be called "The Police Superannuation Fund," and shall be applied from time to time to payment of such superannuation or retiring allowances or gratuities as may be ordered by the local Government, at any time, to any of the aforesaid members of the Police Force as hereinafter provided.

Superannua-
tion pensions to
members of the
Police Force.—
Proviso.

XVIII. It shall be lawful for the local Government to order that any member of the Police Force as aforesaid, who is incapacitated from further employment by old age, protracted ill-health, loss of sight, or other bodily or mental infirmity, may be superannuated, and receive thereupon, out of the Police Superannuation Fund, a monthly pension, subject to the following conditions, and not exceeding the following proportions, that is to say—

First.—If the period during which the individual shall have been actually employed in the Police Force be more than

sixteen years, but less than twenty-four years, the amount of the pension shall not exceed one-third of the monthly salary or authorized official allowances of such individual, calculated on an average of five years previously to the date of the application for such pension.

Secondly.—If the period of actual service be twenty-four years or upwards, the amount of the pension shall not exceed one-half of the salary or authorized allowances of the individual, calculated in the manner above stated.

Provided that nothing in this Section shall be construed to entitle any member of the Police Force absolutely to any superannuation allowance, or to prevent him from being dismissed without superannuation allowance.

XIX. If any officer of the Police Force as aforesaid shall be disabled by any wound or injury received in the actual execution of the duty of his office, it shall be lawful to grant to him, out of the Police Superannuation Fund, any monthly allowance not more than the half of his pay.

Allowances to
Officers disabled
by wound, &c., in
execution of duty.

XX. The Commissioner of Police may, of his own authority, appoint Special Constables to assist the Police Force on any temporary emergency.

Commissioner
of Police may ap-
point Special Con-
stables when ne-
cessary.

XXI. The Commissioner of Police may also, if he shall think fit, on the application of any person showing the necessity of it, appoint any additional number of Constables to keep the peace at any place within his jurisdiction, at the charge of the person applying, but subject to the orders of the said Commissioner, and for such time as he shall think fit; and every such Constable shall receive a Certificate, by virtue of which he shall be vested with all the powers, privileges, and duties of the Constables belonging to the Police Force. Provided, that the person upon whose application such appointment shall have been made may, upon giving one month's notice in writing to the Commissioner of Police, require that the Constables so appointed at his expense shall be discontinued, and thereupon the said Commissioner shall discontinue such additional Constables; and all monies

Appointment of
additional Con-
stables on the ap-
plication of pri-
vate individuals.
—Proviso.

received by the Commissioner for the payment of any such additional Constables shall be accounted for by him.

XXII. The local Government, with the sanction of the Governor General of India in Council, may constitute, within the Towns of Calcutta, Madras, and Bombay respectively, and within the said Settlement, so many Police Districts as to such Government shall seem fit, and define the extent thereof; and from time to time alter the number and extent of such Police Districts, and establish a Police Court in and for each of such districts, or in and for such other districts as the local Government may consider necessary. The local Government may, from time to time, appoint a sufficient number of fit persons as Magistrates of Police for the said Towns and Stations respectively, who may sit and act as such Magistrates in any of the said Police Courts. Every person so appointed, before he shall act as such Magistrate of Police, shall also be appointed a Justice of the Peace, and shall exercise all powers and jurisdictions which by virtue of any law may be exercised by two Justices of the Peace.

Police Districts.
Appointment of
Police Magis-
trates.

XXIII. The Commissioner of Police shall take care that a sufficient number of officers belonging to the Police Force shall be in attendance upon every Magistrate sitting at any Police Court, for the purpose of executing all such orders and process as may be directed or delivered to them.

Police Officers
to be in attend-
ance at the Po-
lice Courts.

XXIV. All summonses, subpoenas, and warrants, issued in any criminal proceeding by a Commissioner or Deputy Commissioner of Police, or by any Magistrate of Police, shall be served and executed within the said Towns and Stations by an officer of the Police Force, and by none other.

Service of cri-
minal process by
Police Officer.

XXV. When any warrant shall be directed or delivered to any such officer, unless the authority issuing it shall order that it be executed without delay, such Police Officer shall deliver the same to the superior officer in charge of the Division to which he belongs, who shall appoint, by endorsement thereon, one or more Police Officers to execute the

Execution of
warrants.

same; and every Police Officer whose name shall be so endorsed thereon shall have the same powers, privileges, and protection, as if the same had been originally directed to him by name.

XXVI. *Clause 1.*—Whoever is charged with having committed any of the offences mentioned in this Act, within any of the said Towns or Stations, or within the limits of any of the ports of the said Towns or Stations, or of any navigable river or channel leading thereto, as such limits shall be defined under the provisions of Act No. XXII of 1855 (An Act for the Regulation of Ports and Port-dues), may be tried summarily by a Magistrate for such Town or Station, and, on conviction, on his own confession, or on the oath of one or more credible witnesses, may be sentenced by such Magistrate to the punishment hereinafter prescribed for the offence; or, if the offence is cognizable by Her Majesty's Supreme Court of Judicature, may, at the discretion of the Magistrate, be committed for trial before such Court.

The trial and of punishment of offences.

Clause 2.—Provided that, whenever any male person is convicted before a Magistrate of any offence summarily punishable under this Act with imprisonment, the Magistrate may, if the person so convicted appears to him to be of such tender years as to require punishment rather in the way of school discipline than of ordinary criminal justice, sentence him to corporal punishment with a light rattan or cane not exceeding ten stripes on the bare buttocks, instead of imprisonment.

* XXVII. Whoever steals, or attempts to steal, any property, or fraudulently receives any stolen property, knowing the same to be stolen, the value of which property, in the opinion of the Magistrate, does not exceed fifty Rupees, shall be liable to imprisonment, with or without hard labor, for a term not exceeding six months, or, if a male, to corporal punishment not exceeding thirty stripes of a rattan.

Stealing or receiving stolen property not exceeding Rs. 50 in value.

* Modified by Act XLVIII, 1860, Secs. 4-6.

* XXVIII. Whoever embezzles, fraudulently misapplies in breach of trust, or obtains, or attempts to obtain by false

Embezzlement, fraudulent misapplication, and

obtaining by
false pretences.

pretences, any property, the value of which in the opinion of the Magistrate does not exceed fifty Rupees, shall be liable to imprisonment, with or without hard labor, for a term not exceeding six months.

Summary con-
viction of
accessaries.

* XXIX. Whoever instigates or aids the commission of the offences mentioned in the last two preceding Sections shall be liable to imprisonment, with or without hard labor, for any term not exceeding six months.

* Modified by Act
XLVIII 1860, Secs
4-b.

Wrongful ap-
propriation of
property found.
If the property
exceed the value
of 50 Rupees,
the offender may
be committed for
trial and
punished as if
convicted of
larceny.

XXX. Whoever, finding any property not in the possession of any person, takes it into his own possession, and (with intent to despoil the owner) fraudulently disposes of it, shall, if the property does not in the opinion of the Magistrate exceed the value of fifty Rupees, be liable to imprisonment, with or without hard labor, for a term not exceeding six months; and if in the judgment of the Magistrate the property exceed the value of fifty Rupees, may be committed for trial to Her Majesty's Supreme Court of Judicature; and upon conviction in such Court, shall be liable to be punished in the same manner as if he had been convicted of simple larceny, whether the offence shall amount to larceny or not.

In Bombay
certain offenders
may be com-
mitted for trial
before the Court
of Petty Ses-
sions.

XXXI. Provided that, in the Town of Bombay, a Magistrate may commit for trial before the Court of Petty Sessions any person charged before him with any of the offences mentioned in Sections XXVII, XXVIII, XXIX, and XXX of this Act; and the said Court may, on conviction, sentence the offender to imprisonment, with or without hard labor, for a term not exceeding twelve months, and in cases falling under Section XXVII, if a male, to corporal punishment not exceeding thirty stripes of a rattan.

XXXII—XXXIV.—*Repealed by Act XLVIII, 1860.*

Fraudulent
possessions of
stolen property.

XXXV. *Clause 1.*—Whoever has in his possession, or conveys in any manner, any thing which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to account satisfactorily how he came by the same, be

liable to a penalty not exceeding one hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Clause 2. If any person, charged with having or conveying any thing stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent, or servant, to convey the same for some other person, the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate), to be brought before him and examined, and shall examine witnesses upon oath touching the same; and if it appear to such Magistrate, that any person so brought before him had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable to a penalty not exceeding one hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

XXXVI. If any property, charged to be stolen or fraudulently obtained, shall be in the custody of any Police Officer by virtue of any warrant of Magistrate, or in prosecution of any charge of felony or misdemeanor in regard to the obtaining thereof, and the person charged with stealing or so obtaining possession thereof shall not be found, or shall have been summarily dealt with or discharged, or shall have been tried and acquitted, or if such person shall have been tried and found guilty but the property so in custody shall not have been included in the indictment upon which he shall have been found guilty, it shall be lawful for any Magistrate to make an order for the delivery of such property to the party who shall appear to be the rightful owner; or, in case the owner cannot be ascertained, then to make such order with respect to the property as to the Magistrate shall seem meet. Provided always, that no such order shall be any bar

Disposal of
stolen property
in custody of
Police.

to the right of any person to sue the party to whom the property shall be delivered, and to recover such property from him by action at law, so that the action be commenced within two months next after such order shall have been made.

Crise of assault,
forcible entry or
injury, not being
felony

XXXVII. Whoever commits any assault, forcible entry, or other injury accompanied with force, not being felony, against the person or property of any person whatsoever, shall be liable to a fine not exceeding one hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding four months. And if the penalty adjudged be a fine, the Magistrate may award the whole or any part thereof to the party aggrieved by way of satisfaction for such injury.

XXXVIII—XL.—Repealed by Act XLVIII, 1860.

Disturbing an
assembly engaged
in religious
worship

XLI. Whoever, without lawful excuse, intentionally causes disturbance to any assembly or procession lawfully engaged in the performance of religious ceremonies, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment, with or without hard labor, for a term not exceeding six months, or to both.

Trespassing
with intent to
disturb any per-
son in the per-
formance of, or
to insult any re-
ligious ceremo-
ny &c.,

XLII. Whoever wilfully trespasses on the premises of any person, or on any place used or set apart for the performance of any religious ceremony, with intent to disturb any person in the performance of any religious rite or ceremony, or to offend the religious feelings of any person, shall be liable to a fine not exceeding one hundred Rupees.

XLIII.—Repealed by Act XLVIII, 1860.

Taking or en-
ticing away or
detaining women
or female chil-
dren under the
age of 14 years.
for certain pur-
poses.

XLIV. Whoever unlawfully takes away, or detains against her will, any woman or female child; or unlawfully takes, or entices away, or detains, any female child under the age of fourteen years, out of the possession, custody, or protection, and against the will of the husband, parent, guardian, or other person, who has the lawful charge or government of such child, for the purpose of living in adultery or concubinage with such woman or child, or for the purpose of pros-

titution, or of deflouring her, or disposing of her in marriage, shall be guilty of a misdemeanor, and shall, on summary conviction before a Magistrate, be liable to imprisonment, with or without hard labor, for any term not exceeding six months, or to fine not exceeding five hundred Rupees or to both; or at the discretion of the Magistrate, may be committed for trial before Her Majesty's Supreme Court of Judicature.

Magistrate may punish summarily, or commit for trial.

XLV. Upon complaint made to a Magistrate on oath of the abduction or unlawful detention of a woman, or of a female child under the age of fourteen years, for any of the purposes aforesaid, such Magistrate may make an order for the immediate restoration of such woman to her liberty, or of such female child to her husband, parent, guardian, or such other person as aforesaid, as the case may be, and may compel compliance with such order, using force if necessary.

Magistrate may compel immediate restoration of such woman or child.

XLVI. Any person found between sun-set and sun-rise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any felonious act; any reputed thief found between sun-set and sun-rise, on board any vessel or boat, or lying or loitering in any bazar, street, road, yard, thoroughfare, or other place, who shall not give a satisfactory account of himself; any person found between sun-set and sun-rise, having his face covered or otherwise disguised, with intent to commit any felony; any person found between sun-set and sun-rise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein; and any person having in his possession, without lawful excuse (the proof of which excuse shall be on such person), any implement of house-breaking, may be taken into custody by any Police Officer without a warrant, and shall be liable to imprisonment, with or without hard labor, for a term not exceeding three months.

Apprehension and punishment of reputed thieves, &c.

XLVII. Whoever, not being a soldier or sailor in the Army or Navy of the Queen or the East India Company, or

Penalty for carrying arms without authority.

a Police Officer, goes armed with any sword, spear, gun, or other offensive weapon, in any street, thoroughfare, or public place, unless by leave of the Commissioner of Police, shall be liable to be disarmed by any Police Officer; and the weapon so seized shall be forfeited to the Government, unless redeemed by payment of a fine, at the discretion of the Commissioner, not exceeding ten Rupees.

Penalty for taking spirits into barracks or on board vessels of war.

XLVIII. Whoever, not being amenable to the Articles of War, takes, or attempts to take, into Fort William at Calcutta, or Fort St. George, or into the Barracks or Buildings occupied by the troops composing the Garrison of Bombay, or into any Military Barracks, guard rooms, or encampments, within any of the said Towns, or Stations, or on board or alongside of any Vessel of War belonging to Her Majesty or the East India Company in the ports of the said Towns or Stations, any spirits or spirituous or fermented liquors, or intoxicating drugs or preparations, without the license in writing of the Commanding Officer (unless such articles belong to some person above the rank of Non-Commissioned Officer), shall be liable to a fine not exceeding one hundred Rupees, or imprisonment for any term not exceeding two months, with or without hard labor; and such liquors, drugs, or preparations, and the vessels containing the same, shall be forfeited.

Or into Jail.

XLIX. Whoever takes, or attempts to take, without due permission, or throws, or attempts to throw, into any Jail or House of Correction or into any public hospital, any spirits or spirituous or fermented liquors or intoxicating drugs or preparations, shall be liable to a fine not exceeding fifty Rupees, or to imprisonment, with or without hard labor, for any term not exceeding two months.

L.—LII.—Repealed by Act XLVIII, 1860.

Disorderly conduct in houses of public entertainment.

LIII. Whoever being the keeper of any such house or place of public resort and entertainment, in the said Towns, or of any house or shop within the said Settlement of Prince of Wales' Island, Singapore, and Malacca, licensed under

Act XIV. of 1851, knowingly permits drunkenness or other disorderly behaviour in such house or place, or knowingly suffers any gaming whatsoever therein, or knowingly permits prostitutes, or persons of notoriously bad character, to meet or remain therein, or wilfully harbours or conceals any soldier, seaman, or apprentice, knowing, or having reason to believe, such soldier, seaman, or apprentice, to be a deserter, shall be liable to a fine not exceeding one hundred Rupees, and shall also be liable to forfeit his license.

LIV. Whoever, in any place within any of the said Towns or Stations, wilfully harbours or conceals any seaman or apprentice belonging to a merchant vessel, knowing, or having reason to believe, such seaman or apprentice to be a deserter, shall be liable to a fine not exceeding one hundred Rupees.

Penalty for
harbouring de-
serters from
merchant ves-
sels.

LV.—*Repealed by Act XLVIII, 1860.*

LVI. Whoever, being the owner or occupier, or having the use of any house, room, or place, opens, keeps, or uses the same for the purpose of gaming being carried on therein, and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be opened, kept or used by any other person for the purpose aforesaid; and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room, or place opened, kept, or used for the purpose aforesaid; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room, or place—shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Penalty for
owning, or keep-
ing or being em-
ployed in a gam-
ing house, &c.

LVII. Whoever is found in any such house, room, or place, playing or gaming with cards, dice, counters, money, or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake, or otherwise, shall be liable to a fine not exceeding two hundred Rupees, or to imprisonment, with or

Penalty for be-
ing found play-
ing in a gaming-
house.

without hard labor, for any term not exceeding one month ; and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until the contrary be proved, to have been there for the purpose of gaming.

Commissioner or Magistrate may grant warrants to enter a gaming-house for the purpose of search and seizure.

LVIII. If the Commissioner of Police, upon information on oath, and after such enquiry as he may think necessary, has reason to believe that any house, room, or place is used as a common gaming-house, he may, by his warrant, give authority to any Inspector or superior officer of Police to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room, or other place, and to take into custody all persons whom he finds therein, whether or not then actually gaming, and to seize all instruments of gaming, and all monies, and securities for money, and articles of value reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein, and to search all parts of the house, room, or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody, and to seize and take possession of all instruments of gaming found upon such search.

LIX.—Repealed by Act XLVIII, 1860.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed, and other articles forfeited or returned.

LX. On conviction of any person for keeping any such common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money and other articles seized, not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all monies seized therein, to be forfeited, or, in his discretion may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

LXI. It shall not be necessary, in order to convict any person of keeping a common gaming-house, or of being concerned in the management of any common gaming-house, to prove that any person found playing at any game was playing for any money, wager, or stake.

Proof of playing for stakes unnecessary.

LXII. Any person who shall have been concerned in gaming contrary to this Act, and who shall be examined as a witness before a Magistrate on the trial of any person for a breach of any of the provisions of this Act relating to gaming, and who, upon such examination, shall make true and faithful discovery, to the best of his knowledge, of all things as to which he shall be so examined, and who shall thereupon receive from the said Magistrate a certificate in writing to that effect, shall be freed from all prosecutions under this Act for any thing done before that time in respect of such gaming.

Witnesses indemnified.

LXIII. Nothing in the foregoing provisions of this Act contained shall be held to apply to any game of mere skill played at licensed Hotels, Taverns, or Eating-houses, or places of public resort.

Act not to apply to certain games.

LXIV. Whoever, by any fraud or unlawful device, or ill-practice in playing at or with cards, dice, or other game, or in bearing a part in the stakes, wagers, or adventures, or in betting on the sides or hands of them that do play, or in wagering on the event of any game, sport, pastime, or exercise, wins from any other person, for himself or any other or others, any sum of money or valuable thing, shall be deemed guilty of obtaining such money or valuable thing from such other person by a false pretence, with intent to cheat or defraud such person of the same, and being convicted thereof, shall be liable to punishment accordingly.

Cheating at games.

LXV. The Magistrate may direct any portion, not exceeding one-fourth, of any fine which shall be levied under Sections LVI and LVII of this Act, or any part of the monies or proceeds of articles seized and ordered to be forfeited under Section LX to be paid to an informer.

Portion of fine may be paid to informer.

Gambling
the streets

LXVI. A Police Officer may apprehend without warrant any person found gaming with cards, dice, counters, money, or other instruments of gaming in any public street, place, or thoroughfare, or publicly fighting cocks, or present as a spectator of such cock-fighting; any such person shall be liable to a fine not exceeding twenty Rupees or to imprisonment, with or without hard labor, for any term not exceeding one month, and such instruments of gaming and money shall be forfeited.

LXVII.—Repealed by Act XLVIII, 1860.

Pawn-brokers
and money-
changers to re-
port stolen prop-
erty under a
penalty of Rs
fifty

LXVIII. If any property, regarding which written or printed information shall be given by any Police Officer to any pawn-broker or dealer in second-hand property or money-changer as having been stolen, embezzled, or fraudulently obtained, shall then be or thereafter come into the possession of or be offered in pawn or for sale or change to such pawn-broker, dealer, or money-changer, he shall, without unnecessary delay, give information to the Commissioner of Police or at the Police Office, that certain property answering the description of the said property was offered to him, or is in his possession, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was offered, or from whom the same was received, under a penalty not exceeding fifty Rupees for each and every such neglect or offence; provided always, that in the case of wearing apparel or other articles which it may be difficult for such pawn-broker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawn-broker or dealer.

If stolen arti-
cles be altered
or defaced by
broker, after in-
formation of the
theft, he shall be
deemed a receiver
of stolen
goods.

LXIX. If any pawn-broker or dealer in second-hand goods or worker in gold or silver, after receiving information of the theft or the embezzling or the fraudulent disposal of any metals, goods, or articles of whatsoever description, melts, alters, defaces, or puts away the same, or causes the same to be melted, altered, defaced, or put

away, without having previously received the permission of the Commissioner of Police, and it shall be found that such metals, goods, or articles were stolen, embezzled, or fraudulently disposed of by the person from whom such pawn-broker, dealer, or worker received the same, or by any other person, then and in such case it shall be held that such pawn-broker, dealer, or worker knew that such metals, goods, or articles were stolen, embezzled, or fraudulently disposed of, and such pawn-broker, dealer, or worker shall be proceeded against according to law as a receiver of stolen goods, or as being a party to the fraud, and punished accordingly; and no other evidence of his guilt shall be necessary than evidence of such melting, altering, defacing, or putting away, after receiving information as aforesaid.

LXX. Whoever manufactures Gunpowder, or, without a license from the Commissioner of Police, has in his possession, in any house, shop, warehouse, or other building, at any one time, a greater quantity of Gunpowder than ten pounds, shall be liable to a fine not exceeding five hundred Rupees, and also to forfeit such Gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

Manufacture
or possession of
Gunpowder.

LXXI. The Commissioner of Police may grant to any person a license for the sale or keeping in deposit of any quantity of Gunpowder not exceeding fifty pounds, on such conditions, and for such term, not exceeding one year, as shall be specified in the license; and any person who shall be guilty of a breach of any of the conditions, shall, on conviction before a Magistrate, be liable to a fine not exceeding two hundred Rupees, and to forfeit all Gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also, in the discretion of the Magistrate, or of the Commissioner, to forfeit his license.

Licenses for
sale and deposit
of Gunpowder,
&c.

LXXII. The Commissioner of Police may grant to any person a license for the transit and carrying of Gunpowder from one place to another, in such manner and in such quan-

Licenses for
conveying and
removing Gun-
powder.

tity as he may deem advisable ; and any person, not being duly licensed in that behalf, who carries or conveys a greater quantity of Gunpowder than one pound from one place to another, shall be liable to a fine not exceeding fifty Rupees.

Commissioner may issue warrant to search for Gunpowder, &c.

LXXIII. The Commissioner of Police, on credible information laid before him on oath, may issue his warrant authorizing a Police Officer to search in the day-time any house, shop, magazine, or other building or place in which he has reasonable ground to suspect that any Gunpowder is manufactured, sold, or kept, or any boat, carriage, cart, or other vehicle in which any Gunpowder may be suspected to be carried, or any person suspected of carrying the same contrary to the provisions of this Act ; and all Gunpowder found on such search shall, together with the vessels or receptacles in which it may be stored, be immediately seized and kept, pending the judgment of a Magistrate.

Act not to apply to Government powder, &c.

LXXIV. None of the four last preceding Sections shall extend to any Government magazine, or store, or building for the making or deposit of Gunpowder under the authority or for the use of the Government, or to any Gunpowder belonging to Her Majesty or the East India Company.

LXXV—LXXVI,—Repealed by Act XLVIII, 1860.

The regulation of public processions, &c and of carriages and persons at places of public resort.

LXXVII. The Commissioner of Police, from time to time as occasion may require, may, subject to the orders of the Local Government, make rules for the conduct of all assemblies and processions in the public roads, streets, or thoroughfares, prescribing the routes by which, and the times at which, such processions may pass ; and for keeping order in the public roads, streets, thoroughfares, ghauts, and landing-places, and all other places of public resort, and preventing obstructions thereof on the occasion of such assemblies and processions ; and in the neighbourhood of places of worship during the time of public worship ; and in any case when the roads, streets, or thoroughfares, ghauts or landing places may be thronged, or may be liable to be obstructed ; and may give licenses for the use of music in the streets on

Licenses for use of music in street.

the occasion of native festivals and ceremonies ; and every person opposing or not obeying the orders so issued by the Commissioner of Police, or violating the conditions of such license, shall be liable to a fine not exceeding one hundred Rupees.

LXXVIII.—Repealed by Act XLVIII, 1860.

LXXIX. The Commissioner may refuse to register any boat, or may cancel the registration thereof whenever it may appear to him to be in an unsafe state.

Boats in unsafe state.

LXXX. Whenever any accident shall occur to a registered boat, attended with loss of the life of any one of the crew or passengers, the manjee, or, if the manjee be not forthcoming, the owner of the boat, shall report the circumstances at the Police Office ; and if the manjee or the owner, as the case may be, without lawful excuse, neglect or delay to make such report, he shall be liable to a fine not exceeding fifty Rupees.

Neglecting or delaying to report accident to a registered boat.

LXXXI.—Repealed by Act XLVIII, 1860.

LXXXII.—Repealed as above.

LXXXIII. Whoever destroys, injures, or disturbs any lamp-post, lamp-bracket, or lamp, or extinguishes any light therein, or abstracts or takes away any oil or other matter or thing therefrom, shall be liable to a fine not exceeding twenty Rupees, or, in default thereof, to imprisonment, with or without hard labor, for a term not exceeding fourteen days ; and if the lamp-post or bracket or lamp belong to the Municipal Commissioners, the fine, if realized, shall be paid to the Municipal Fund.

Destroying, &c lamp-post, &c.

LXXXIV. Whoever wilfully and indecently exposes his person, or commits a nuisance, by easing himself in or by the side of or near to any public street or thoroughfare or place, shall be liable to a fine not exceeding ten Rupees, or, in default thereof, to imprisonment, with or without hard labor, for fourteen days.

Committing a nuisance in streets.

LXXXV. Whoever, in any public road, street, thoroughfare, or place, begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment or deformity, with

Beggars.

the object of exciting charity, or of obtaining alms; or whoever seeks for, or obtains alms, by means of any false statement or pretences, shall be liable to imprisonment, with or without hard labor, for any term not exceeding one month.

Police Officer may arrest without warrant on view of offence.

LXXXVI. Any Police Officer may arrest, without a warrant, any person committing, in his view, any offence against this Act.

Police officers may arrest without warrant persons charged with recent aggravated assault.

LXXXVII. Any Police Officer may take into custody, without warrant, any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed, although not in his view, and that by reason of the recent commission of the offence, a warrant could not have been obtained for the apprehension of the offender.

Apprehension of offenders by private individuals.

LXXXVIII. Whoever commits an offence on or with respect to the person or property of another, or, in committing an offence under this Act injures or damages the person or property of another, may, if his name and address be unknown, be apprehended by the person injured, or by any person who may be using the property to which the injury may be done, or by the servant of either of such persons, or by any person authorized by or acting in aid of him, and may be detained until he give his name and address and satisfy such person that the name and address so given are correct, or until he can be delivered into the custody of a Police Officer.

Penalty for forcibly resisting such apprehension.

LXXXIX. If any person lawfully apprehended under the last preceding Section shall assault or forcibly resist the person by whom he shall be so apprehended, or any person acting in his aid, he shall be liable to a fine not exceeding 200 Rupees.

Person taken into custody without warrant may be detained in the Station House, until brought before a Magistrate or bailed.

XC. Every person taken into custody without a warrant by a Police Officer shall be taken to the Station House, in order that such person may be detained until he can be brought before a Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before a Magistrate.

XCI. Whenever any person is brought to a Station House charged with any offence against this Act, other than a felony; or whenever a person charged with a felony is in the custody of any Police Officer without a warrant—it shall be lawful for the officer in charge of such Station House, or any superior officer of Police, if he shall deem it prudent, and, in the case of felony if he shall deem it probable that the person is falsely accused, to enlarge such person on his own recognizance, with or without sureties, conditioned as hereinafter mentioned.

Power to take
recognizances at
Station House
upon certain
charges.

XCII. Every recognizance so taken shall be without fee or reward, and shall be conditioned for the appearance of the person thereby bound before a Magistrate at his next sitting, and the time and place of appearance, and the sum thereby acknowledged (not exceeding one thousand Rupees) shall be specified in the said recognizance, or in the condition thereof; and the officer taking the recognizance shall enter into a book, to be kept for the purpose, the name, residence, and occupation of the party, and his surety or sureties, (if any), entering into such recognizance, together with the condition thereof, and the sum thereby acknowledged, and shall return every such recognizance to the Magistrate present at the time and place when and where the party is bound to appear.

Condition of
recognizance.

XCIII. If information shall be given on oath to the Commissioner of Police, or to a Magistrate, that there is reasonable cause for suspecting that any thing stolen or unlawfully obtained is concealed or lodged in any dwelling-house, building, or other place, or any ship or vessel, the Commissioner or the Magistrate, by special warrant under his hand directed to any Police Officer, may cause such dwelling-house, building, or other place, or ship or vessel, to be entered and searched at any time of the day, or by night if power for that purpose be given by such warrant; and the said Commissioner or Magistrate, if it shall appear to him necessary, may empower such Police Officer, with such assistance as may be found necessary, (such officer having previously

On suspicion of
goods being
stolen or unlaw-
fully obtained,
Commissioner or
Magistrate may
grant search-
warrant.

made known his authority), to use force for the effecting of such entry, whether by breaking open doors or otherwise; and if, upon search thereupon made, such thing shall be found, then to convey the same before a Magistrate, or to guard the same on the spot until the offenders are taken before a Magistrate, or otherwise dispose thereof in some place of safety; and moreover to take into custody, and carry before the said Magistrate, every person found in such house or place, or ship or vessel, who shall appear to have been privy to the deposit of any such thing, knowing or having reasonable cause to suspect the same to have been stolen, or otherwise unlawfully obtained.

Power to search houses for stolen property without a warrant, in certain cases.

XCIV. If information shall be given to any Officer of Police not below the rank of Inspector, that there is reasonable cause for suspecting that any stolen property is concealed or lodged in any dwelling-house or other place, and he shall have good grounds for believing, that, by reason of the delay in obtaining a search-warrant, the property is likely to be removed, the said officer, in virtue of his office, may search for specific articles alleged to have been stolen in the houses and places specified; provided always, that a list of the articles stolen or missing be delivered or taken down in writing, with a declaration stating that the robbery has been committed, and that the informant has good ground to believe that the property is deposited in such house or place; and provided further, that the person who lost the goods or his representative accompany the officer in the search.

Magistrate may proceed by summons, and if party does not appear, may issue warrant. In cases not of a criminal nature, Magistrate may proceed in the absence of the person summoned. Prosecution for such offences to be commenced within three months.

XCV. Upon any information or complaint, which need not be upon oath, laid or made before a Magistrate of Police, of any matter which such Magistrate is by law authorized to hear and determine summarily, he may summon the person charged to appear at a time and place to be mentioned in the summons; and if such person shall not appear according to the tenor of the summons, the Magistrate, upon proof of the service of the summons, may proceed, in all cases which are not of a criminal nature, if no sufficient cause shall be shown for the non-appearance of the person charged, to hear and

determine the case in his absence; or in such cases and in all criminal cases, may, if he think fit, upon oath being made before him substantiating the matter of such information or complaint to his satisfaction, issue his warrant for apprehending and bringing the person charged before him or some other Magistrates in order that the said information or complaint may be heard and determined. Provided always, that the prosecution for any offence not of a criminal nature, punishable upon summary conviction by virtue of this Act, shall be commenced within three months after the commission of the offence, and not otherwise.

XCVI. Every such summons shall be served by delivering the original or a copy thereof to the person charged, or by leaving the same at his usual place of abode with some adult male member or servant of his family.

How summon
may be served.

XCVII. A Magistrate may, without issuing any summons, forthwith issue his warrant for the apprehension of any person charged with any offence cognizable before him, whenever good grounds for so doing shall be stated on oath before him.

Magistrate
may issue war-
rant without
summons when
grounds are stat-
ed on oath.

XCVIII. A Magistrate may summon any person within his jurisdiction to appear before him, at a time and place appointed, as a witness in any matter cognizable by the Magistrate, and to bring with him any document or thing that may be required relating to any offence with which any person is charged before him; and may administer to such person an oath to testify the truth in such matter. If any person so summoned shall, without reasonable excuse, refuse or neglect to appear at the time and place appointed for that purpose, the Magistrate may (after proof upon oath of the summons having been served upon such person either personally or by leaving the same at his usual place of abode with some adult male member or servant of his family) issue a warrant to bring such person before him to testify as aforesaid. If, on the appearance of the person summoned, either in obedience to the summons or by virtue of a warrant,

Magistrate
may enforce at-
tendance of wit-
ness, and admin-
ister oath. Pu-
nishment of wit-
ness refusing to
answer.

he shall refuse to be examined upon oath, or to answer all such questions as shall be put to him, or to produce any such document or thing, without offering a good excuse for such refusal, he shall be liable to a fine not exceeding fifty Rupees, or the Magistrate may commit such person to prison, there to remain for any time not exceeding one month, unless he shall sooner submit himself to be sworn or examined, or to produce the document or thing required.

XCIX.—Repealed by Act XLVIII, 1860.

Perjury

C. Whoever commits perjury in any judicial proceeding before a Magistrate, may be committed by such Magistrate for trial before Her Majesty's Supreme Court of Judicature.

Power to adjourn cases and commit defendant, or suffer him to go at large, or discharge him on recognizance. In cases not criminal Magistrate may proceed in the absence of parties. In all cases if prosecutor fails to appear, complaint may be dismissed.

CI. The Magistrate may, from time to time, adjourn the hearing of any information or complaint to a certain time and place to be then appointed and stated in the presence and hearing of the party or parties, or their respective counsel, attorneys, or agents then present, and in the meantime the said Magistrate may suffer the defendant to go at large, or may discharge him upon his entering into a recognizance, with or without surety or sureties, conditioned for his appearance at the time and place to which such hearing or further hearing shall be adjourned; and, in default of such recognizance, or if the offence with which such person is charged is not a bailable offence, may detain him in custody; and if, at the time or place to which such hearing or further hearing shall be so adjourned, either or both of the parties shall not appear personally, or by his or their counsel, attorneys or agents respectively, before the said Magistrate, or such other Magistrate as shall then be there, it shall be lawful for the Magistrate then there present to proceed, in cases which are not of a criminal nature, to such hearing or further hearing, as if such party or parties were present; and in all cases where the prosecutor or complainant shall not so appear, the said Magistrate may dismiss such information or complaint, with or without costs, as to such Magistrate shall seem fit.

CII. It shall be lawful for any Magistrate, who shall hear and determine any information or complaint, to award such costs as to him shall seem meet, to be paid to or by either of the parties to the said charge or complaint; and such costs shall be recoverable in the manner hereinafter provided for levying fines.

Power to award costs.

CIII. In every case in which any person shall be given in charge to a Police Officer, or in which any information or complaint of any offence shall be laid or made before any Magistrate, and shall not be further prosecuted, or in which, if further prosecuted, it shall appear to the Magistrate by whom the case shall be heard that there was no sufficient ground for making the charge, the Magistrate shall have power to award such amends, not exceeding fifty Rupees, to be paid by the informer or complainant to the party informed or complained against, for his loss of time and expenses in the matter, as to the Magistrate shall seem meet. Such amends shall be recoverable in the manner hereinafter provided for levying fines.

Amends may be awarded for groundless charges.

CIV. It shall be lawful for any person to compromise any of the offences specified in this Act, not being felonies, after complaint thereof has been made; provided that the offence is of such a nature as the injured party might have sued and recovered damages for in an action at law.

Compromise.

CV.—*Repealed by Act XLVIII, 1860.*

CVI. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Distress not unlawful for want of form, &c.

CVII. If any person, upon entering into such recognizance as is by this Act authorized to be taken, do not afterwards appear pursuant to such recognizance, the Magistrate

If Magistrate certifies the non-appearance of a person pursuant to his recognizance, the sum

acknowledged
may be recover-
ed as a fine.

before whom he ought to have appeared shall certify the fact of such non-appearance on the back of the recognizance, and thereupon the sum thereby acknowledged shall be recoverable in the manner provided by this Act for levying fines.

Recognizances
for keeping the
peace or for good
behaviour.

CVIII. *Clause 1.*—Every Magistrate of Police shall have the same authority to require persons to enter into recognizances to keep the peace or to be of good behaviour as may lawfully be exercised by a Justice of the Peace.

Clause 2.—If any person who has entered into a recognizance in any amount not exceeding Rupees 200, to keep the peace or to be of good behaviour, before any Magistrate of Police or any Justice of the Peace, by any act forfeits such recognizance, the Magistrate or other authority before whom he may be convicted of any act by which such recognizance is forfeited, shall, when applied to, certify any such conviction on the back of such recognizance, and thereupon the sum thereby acknowledged to be due by such person shall be recoverable in the manner provided by this Act for levying fines.

Clause 3.—Whenever it shall be shown to the satisfaction of a Magistrate of Police, either by the production of such certificate of conviction as is mentioned in the preceding Clause or otherwise, that any such recognizance is forfeited, the Magistrate, if he think that proceedings should be had against the sureties, shall give notice to them to pay the sums which by their recognizances they have respectively acknowledged themselves to owe, or to show cause on a day to be named in such notice, why the said sums should not be paid; and if no sufficient cause shall be shown, the said sums shall be recoverable in the manner provided by this Act for levying fines.

Powers of
Court of Petty
Sessions at Bom-
bay as to the is-
sue of process.

CIX. All powers and authorities conferred on a Magistrate of Police by this Act, relating to the issue of summonses and other process, to enforce the attendance of prosecutors, defendants, and witnesses, and to the issue of warrants of distress and commitment, shall be exercised by the Court of Petty Sessions at Bombay, and all summonses

to parties to appear before that Court may issue under the signature of any Magistrate or of the Clerk of the Court.

CX. Any Magistrate, in cases adjudged summarily under the provisions of Sections XXVII, XXVIII, XXIX, and XXX of this Act, shall cause the judgment to be drawn in the form (B) hereinafter provided, or to the like effect.

Form of judgment.

CXI. No conviction, order, or judgment of any Magistrate, or in Bombay of the Court of Petty Sessions, shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment, the evidence on which it proceeds; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment, in obedience to any writ of *certiorari*; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Conviction to be quashed on merits only. Form of conviction, &c.

CXII.—Repealed by Act XLVIII, 1860.

CXIII. Whenever any person dies intestate within any of the said Towns or Stations leaving moveable property therein under two hundred Rupees in value, which property is, in the absence of any person entitled thereto, taken charge of by the Police for the purpose of safe custody, it shall be lawful for the Commissioner of Police to order the said property to be delivered, without letters of administration taken out, to any person claiming to be entitled to the whole or any part thereof; provided he shall be satisfied of the title of the claimant, and of the value of the property, by the oath or affirmation of the claimant, or by such other evidence as he may require.

Moveable property of persons dying intestate, under two hundred Rupees in value.

CXIV. The Commissioner of Police may, at his discretion, before making any order under the preceding Section, take such security as he may think proper for the due administration and distribution of such property. And nothing hereinbefore contained shall affect the right of any person to recover the whole or any part of the same from the person to whom it may have been delivered pursuant to such order.

Commissioner may take security for due administration of such property. Proviso.

CXV.—Repealed by Act XLVIII, 1860.

Stray dogs to
be killed at cer-
tain appointed
periods.

CXVI. It shall be lawful for the Commissioner of Police, by order in writing to be affixed at the principal Police Stations, and also to be published in some public newspaper, to appoint from time to time certain periods within which any dogs found straying in the streets or beyond the enclosures of the houses of the owners of such dogs, may be destroyed.

Foreign De-
serters.

CXVII. Any Magistrate, upon an application being made to him by the Consul of any Foreign power to which the Foreign Deserters' Act (1852) has by an order of Her Majesty in Council been, or shall hereafter be, declared to be applicable, and upon complaint on oath of the desertion of any seaman, not being a slave, from any ship of such Foreign power, may, until a revocation of such order in Council shall have been publicly notified, issue his warrant for the apprehension of any such Deserter, and, upon due proof of the desertion, may order him to be conveyed on board the vessel to which he belongs, or, at the instance of the Consul, to be detained in custody till the vessel is ready to sail, on deposit being first made of such sum as the Magistrate shall deem necessary for the subsistence of the Deserter during such detention; provided that the detention of such Deserter shall not be continued beyond twelve weeks.

Commence-
ment of Act.

CXVIII. This Act shall commence and take effect from and after the 1st of November 1856.

SCHEDULE.

LAWS REPEALED.

So much of Section CLIX of the Statute 33 George III, Chapter 52, as relates to the sale of Arrack or other spirituous liquors, and to the punishment of unlicensed traders in spirits or spirituous liquors, as is now in force in any of the Towns or Factories therein mentioned.

Act No. XXII of 1840, entitled "An Act for the punishment of Vagrants within the towns of Calcutta and Madras

and the islands of Bombay and Colaba extorting alms by offensive and disgusting exhibitions and practices."

Calcutta.

Act No. XXI of 1839, entitled "An Act for the trial of prisoners charged with the commission of certain petty offences in the Town of Calcutta and on the River Hooghly."

Act No. III of 1842, entitled "An Act for extending the provisions of Act XXI of 1839, to certain petty thefts, not being cases of simple larceny."

Section XII of Act No. XI of 1849, entitled "An Act for securing the Abkaree Revenue of Calcutta."

Act No. XIII of 1852, entitled "An Act for consolidating and amending the regulations of the Calcutta Police."

Madras.

A Rule, Ordinance, and Regulation called "A Regulation for establishing an efficient system of Police."

A Rule, Ordinance, and Regulation called "A Regulation for apprehending and punishing idle and disorderly persons."

A Rule, Ordinance, and Regulation called "A Regulation for the prevention and punishment of dishonest practices, of the misconduct of servants, and of affrays and other misdemeanors."

A Rule, Ordinance, and Regulation called "A Regulation for granting Licenses to Vendors of Spirituous and other Intoxicating Liquors."

A Rule, Ordinance, and Regulation called "A Regulation for registering and controlling Gold and Silver-smiths, Shroffs, Hawkers, China bazar-men, Shop-keepers, Second-hand Dealers, Shipping Dubashes, Head Cooly-men, Head Bandy-men, Head Carpenters, Smiths, Bricklayers, Tailors, and all Head-men or Maistrees in every other trade or occupation."

A Rule, Ordinance, and Regulation called "A Regulation for Markets."

A Rule, Ordinance, and Regulation called "A Regulation for rating the wages of Coolies, Artificers, and Workmen of every description."

A Rule, Ordinance, and Regulation called "A Regulation for punishing the offences of Boatmen."

A Rule, Ordinance, and Regulation called "A Regulation for preventing accidents from the negligence of the persons in charge of Horses, Carriages, Carts, or other conveyances."

Act No. VIII. of 1849, entitled "An Act for assimilating the penal jurisdiction of Police Magistrates at Madras to that of Justices of the Peace at Calcutta,"

Sections III. and V. of Act XXII. of 1837.

Section XII. of Act No. XIX. of 1852, entitled "An Act for securing the Abkarree Revenue of Madras."

Bombay.

Rule, Ordinance, and Regulation II. 1812, called "A Rule, Ordinance, and Regulation for vesting a control in the sale of Arrack or other spirituous liquors beyond the limits of the town of Bombay, and on the island generally, in His Majesty's Justices of the Peace."

Rule, Ordinance, and Regulation I. 1813, called "A Rule, Ordinance, and Regulation for compelling those who are able to support their infant relations, and for subjecting the numerous aliens who pass over to the Island of Bombay from the Marhatta territories, to certain restrictions."

Rule, Ordinance, and Regulation II. 1813, called "A Rule, Ordinance, and Regulation to diminish the number of Pariah Dogs, having no owners, on the Island of Bombay, and to authorize the erection of public pounds for animals straying or trespassing on the public streets or roads of the Island, or on the grounds of the inhabitants thereof."

Rule, Ordinance, and Regulation I. 1814, called "A Rule, Ordinance, and Regulation for vesting any two of His Majesty's Justices of the Peace with power to decide on all disputes arising between Masters and Mistresses and any of their household servants, Hamauls or Palanqueen-bearers, and for empowering either of the Magistrates of Police to decide summarily on acts of miscarriage and ill-behaviour requiring moderate though immediate correction."

Rule, Ordinance, and Regulation I. 1815, called "A Rule, Ordinance, and Regulation for vesting in His Majesty's Jus-

tices of the Peace a general control over the sale of Toddy and all other fermented or intoxicating liquors throughout the Island of Bombay."

Rule, Ordinance and Regulation I. 1818, called "A Rule, Ordinance, and Regulation to repeal Rule, Ordinance, and Regulation II. 1815, and to make more effectual provisions for widening the wheels of Carts, Hackeries, and other native conveyances."

So much of Rule, Ordinance, and Regulation I. 1820, called "A Rule, Ordinance, and Regulation for establishing an effective control over the Shipping resorting to the port of Bombay, for preventing the desertion of the crew of ships, the European soldiers of the Garrison offering themselves as seamen, and for the better security of the harbour and dock-yard of Bombay," as is now in force.

So much of Rule, Ordinance, and Regulation I. 1821, called "A Rule, Ordinance, and Regulation for modifying the provisions of Rule, Ordinance, and Regulation I. of 1820, relating to Ballast for Ships," as is now in force.

So much of Rule, Ordinance, and Regulation II. 1827, called "A Rule, Ordinance, and Regulation for better defining and extending the powers and jurisdiction of the Court of Petty Sessions, and of Magistrates of the Police"; and for amending and consolidating into one Rule, Ordinance, and Regulation, sundry provisions relating to such powers and jurisdiction," as is now in force.

Rule, Ordinance, and Regulation I. 1834, called "A Rule, Ordinance, and Regulation for repealing Titles 1st, 2nd, and 3rd of Rule, Ordinance, and Regulation II of 1827," except Articles I, II, V, VI, VII, and VIII of Title II (relating to the constitution of the Court of Petty Sessions,) so far as they are now in force.

So much of Act No. VIII of 1836, as relates to any law hereby repealed.

Act No. XVIII of 1840, entitled "An Act to regulate the granting and withholding licenses for the sale of Liquors within the Islands of Bombay and Colaba."

Act No. III of 1841, entitled "An Act for the trial of prisoners charged with the commission of certain offences within the Islands of Bombay and Colaba, and the Harbour of Bombay."

Act No. IX of 1851, entitled "An Act for the prevention of Gambling in Bombay."

Settlement of Prince of Wales' Island, Singapore, and Malacca.

Act No. III of 1847, entitled "An Act to provide for the appointment of Constables and Peace Officers at the Settlement in the Straits."

Act No. XIV of 1850, entitled "An Act for assimilating the penal jurisdiction of Police Magistrates at the Straits' Settlements to that of Justices of the Peace at Calcutta."

Act No. XL of 1850, entitled "An Act for licensing Pawn-brokers in the Settlements of Prince of Wales' Island, Singapore, and Malacca," except Sections II and III.

Act No. XXXIV of 1852, entitled "An Act for the prevention of Gambling in the Settlement of Prince of Wales' Island, Singapore, and Malacca."

Section VIII of Act XIV of 1851, entitled "An Act for consolidating the laws for collecting a Revenue of Excise on spirituous liquors and intoxicating drugs in the Settlement of Prince of Wales' Island, Singapore, and Malacca."

SCHEDULES OF FORMS.

FORM A.

A. B. has been appointed a Superintendent, Inspector Jemadar, Darogah, or Peon, (*as the case may be*) in the () Police Force, and is vested with the powers, functions and privileges of a Constable.

FORM B.

Be it remembered that, on the day of
in the year of our Lord before me (

) Magistrate of Police in and for (

) C. D. is (*convicted or acquitted*) on a charge of (*here specify the alleged offence and the time and place when and where the same was committed, as the case may be,*) and I, the said Magistrate of Police, believe the value of the property, the subject of the charge, to amount to a sum not exceeding fifty Rupees, that is to say _____ Rupees; and I adjudge the said C. D. (*here state that the prisoner is to be discharged, or the punishment he is to suffer, as the case may be.*)

(Signed) _____

ACT NO. XIV OF 1856.

1. Act No. 10, repealed.
2. Interpretation.
3. Commissioners to appoint officers.
4. Property vested in Commissioners.
5. Streets and roads vested in the Commissioners.
6. Power to make and improve streets and roads.
7. Power to take land adjoining new streets for building purposes. Compensation for damage to adjoining land.
8. Power to agree for purchase of land for improving streets.
9. Maintenance and repair of streets and roads. Footways.
10. Cleansing streets.
11. Dust boxes in streets.
12. Depositing dirt on streets, &c.
13. Allowing sewerage to flow on streets.
14. Removal of night-soil.
15. Places of deposit for filth.
16. All rubbish, &c., collected to be the property of the Commissioners.
17. Watering streets.
18. Lighting streets.
19. Penalty for future obstructions in streets or roads. Power to remove them, and to allow temporary obstructions.
20. Taking up pavements.
21. Private persons laying out new streets. Proviso.
22. Erection of new huts to be under the control.
23. Power of Commissioners as to existing huts.
24. Paving, &c., of private streets. Proviso.

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25. *Certain streets to be deemed public and repaired by the Commissioners. Proviso.*
 26. *Houses may be set forward for improving line of streets.*
 27. *Houses projecting beyond line of street, when taken down to be set back. Proviso.*
 28. *Names of streets.*
 29. *Numbers on houses.*
 30. *Doors not to open outwards.*
 31. *Doors opening outwards to be altered.*
 32. *Troughs and pipes to be fixed to houses.*
 33. *Future projections from houses to be removed. Proviso. Sun-shades, &c.*
 34. *Removal of existing projections from houses. Notice of removal. Compensation when to be made.*
 35. *Commissioners may allow certain projections from houses.*
 36. *Roofs and external walls of houses not to be made of combustible materials.*
 37. *Houses in a ruinous and dangerous state.*
 38. *Sale of materials of ruinous houses.*
 39. *Power to shut up and secure deserted houses.*
 40. *Penalty on occupier of a house not removing filth.*
 41. *Filthy houses, &c.*
 42. *Power to trim hedges and trees bordering roads.*
 43. *Keeping swine, &c., in or near any street.*
 44. *Sewers, drains, &c., vested in the Commissioners.*
 45. *Commissioners to make public sewers.*
 46. *Commissioners to repair and alter and discontinue sewers.*
 47. *Cleansing and emptying sewers.*
 48. *Bed of stream receiving sewerage to be cleared.**
 49. *Penalty for making unauthorized drains into sewers.*
 50. *Building over sewers, &c., not to be erected without consent of Commissioners.*
 51. *Commissioners empowered to make drains from houses in or near street and not properly drained.*
 52. *Level of houses hereafter built in or near streets.*
 53. *Houses hereafter built in or near streets to have drains constructed under the orders of the Commissioners.*
 54. *Notice of new buildings to be given to Commissioners.*
 55. *Commissioners to signify disapproval within fourteen days.*
 56. *Houses built without notice, or contrary to provisions of this Act, may be altered by Commissioners.*
 57. *If Commissioners fail to give directions within fourteen days, parties may proceed without.*
 58. *Sewers in streets to be covered with traps, &c.*

59. *Power of Commissioners to erect or affix to buildings pipes for ventilation of sewers.*

60. *Throwing rubbish into sewers.*

61. *Common necessities.*

62. *Licensing of public necessities.*

63. *Neglecting to close private privy.*

64. *Branch-drains, privies, &c., to be under control of Commissioners and to be kept in good order by owners. If owners neglect, Commissioners may cause the same to be done and charge the owners with the expense.*

65. *Penalty for persons making or altering drains, &c., contrary to the orders of the Commissioners.*

66. *Inspection of drains, privies, and cess-pools. Proviso.*

67. *Notice to owners and occupiers of buildings and lands.*

68. *Commissioners, in default of owner or occupier, may execute works and recover expenses.*

69. *Power to levy charges on occupier, who may deduct the same from his rent.*

70. *Occupier not to be liable for more than the amount of rent due.*

71. *Occupier, in default of owner, may execute works and deduct expenses from his rent.*

72. *Proceedings in case of tenants opposing the execution of this Act.*

73. *Tanks, &c., vested in the Commissioners.*

74. *Construction and maintenance of works for supply of water.*

75. *Provision for supply of water in cases of fire.*

76. *Fouling water by—Bathing. Washing. Throwing rubbish, &c. Allowing drains, &c., to flow.*

77. *Water fouled by offensive trades.*

78. *Injuring water-works or diverting or wasting water.*

79. *Commissioners may set apart bathing places, &c.*

80. *Bye-laws to regulate the use of water and of bathing places.*

81. *Power to fill up unwholesome tanks on private premises.*

82. *Power to drain off and cleanse stagnant pools in open places.*

83. *Commissioners in executing works to provide roads, &c., where existing ones injured.*

84. *Commissioners breaking up street to restore the same with all convenient speed.*

85. *Situation of gas and water-pipes to be altered at the expense of the Commissioners.*

86. *If owner, &c., neglect to make alterations, the Commissioners may cause the same to be done.*

87. *Boards to be up during repairs.*

88. *Bars to be erected across streets during repairs, and lights placed at night.*

89. *Penalty for not lighting deposits of building materials or excavations,*

90. *Dangerous places near streets to be repaired or enclosed.*

91. *Slaughter-houses within certain limits to be registered.*

92. *Commissioners may order existing Slaughter-houses to be discontinued. Provision.*

93. *No Slaughter-houses to be newly set up without license.*

94. *Commissioners to provide places for Slaughter-houses.*

95. *Markets, Slaughter-houses, &c. to be properly drained.*

96. *Commissioners may make bye-laws for the inspection of Slaughter-houses.*

97. *Keeping unwholesome food in market, or in shops.*

98. *Sale of unwholesome food or drink.*

99. *Power to Commissioners to enter and inspect Slaughter-houses, shops, &c., and to seize unwholesome articles exposed for sale.*

100. *Suspension or revocation of license, &c.*

101. *Penalty for using Slaughter-houses during suspension or revocation of license.*

102. *Offensive and dangerous trades existing within certain limits to be registered.*

103. *Penalty for establishing such trades without license.*

104. *Commissioners to make rules for licensing, registering, &c. such business places.*

105. *Burial and Burning grounds to be registered.*

106. *No vault or burial or burning place henceforth to be constructed without leave of Commissioners.*

107. *Commissioners to issue certificates prohibiting improper burial places. Provision.*

108. *Commissioners may, in certain cases, permit interment in churches, &c.*

109. *Commissioners may provide burial or burning grounds.*

110. *And make bye-laws for regulation thereof.*

111. *Registry of deaths.*

112. *Power to enter upon lands for the purposes of this Act.*

113. *Power to Commissioners to enter on lands adjacent to works.*

114. *Penalty for obstructing Commissioners in their duty.*

115. *Powers to be exercised by the Commissioners when constructing drains and aqueducts without the local limits of the jurisdiction of Supreme Courts.*

116. *Commissioners empowered to make bye-laws.*

117. *Bye-laws to be confirmed.*

118. *Notice of confirmation.*
119. *Publication of bye-laws.*
120. *Bye-laws to be judicially noticed.*
122. *Publication of penalties.*
123. *Power to Commissioners to make contracts.*
124. *Commissioners may direct prosecutions.*
125. *Act not to effect nuisances at common law. Proviso.*
126. *No writ or process to be issued against Commissioners or their officers until after one month's notice of cause of action, &c.*
127. *Power to make compensation out of funds.*
128. *Mode of ascertaining compensation for land, &c.*
129. *Power to sell lands.*
130. *Power to sell old roads.*
131. *Fees for licenses.*
132. *Damages and expenses how to be determined.*
133. *Method of proceeding before Magistrates in questions of damages, &c. Proviso.*
134. *Recovery of damages by distress.*
135. *Commissioners may sue in competent Court instead or on failure of distress.*
136. *Distress not unlawful for want of form.*
137. *Recovery of fines and penalties.*
138. *How fines and penalties are to be applied.*
139. *No person liable to fine or penalty, unless complaint made within three months after offence committed.*
140. *Damage to the Commissioners' property to be made good, in addition to penalty.*
141. *Police Officers to report offence to Commissioners and to arrest unknown offenders.*
142. *Commencement of Act.*

AN ACT for the Conservancy and Improvement of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

WHEREAS it is expedient to make better provision for the conservancy and improvement of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca, and to invest the Municipal Commissioners for each of the said Towns and Stations with the powers hereinafter mentioned; It is enacted as follows:—

I. The several Acts, and Rules, Ordinances and Regulations, mentioned in the Schedule hereunto annexed, are

Acts, &c., re-
pealed.

hereby repealed, except so far as they repeal the whole or any part of any other Act, or Rule Ordinance and Regulation, and except as to any act or offence which shall have been done or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation.

Interpretation.

II. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, (that is to say)—

The expression “Local Government” shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the territories in the possession and under the government of the East India Company in which the Town or Station is situated.

The expressions “The Municipal Commissioners” and “The Commissioners” shall mean the persons, however designated, for the time being constituted by law to administer the funds applicable to the purposes of conservancy and improvement in the Town or Station for which they are so constituted.

The word “Town” shall include all places within the local limits of the jurisdiction of Her Majesty’s Supreme Courts of Judicature at Calcutta, Madras, and Bombay.

The word “Station” shall mean any one of the Stations of Prince of Wales’ Island, Singapore, and Malacca, and the dependencies thereof.

The word “Street” shall mean any road, street, square, court, alley, or passage, whether a thoroughfare or not, over which the public have a right of way, and also the roadway over any public bridge or causeway, within such parts of the said Towns and Stations as shall be from time specially defined by the Commissioners with the sanction of the Local Government; and the expression “in or near any street” shall designate any place within such defined parts of the said Towns and Stations.

which the public have a right of way, and also the roadway over any public bridge or causeway, within such parts of the said Towns and Stations as shall be from time to time specially defined by the Commissioners with the sanction of the Local Government ; and the expression "in or near any street" shall designate any place within such defined parts of the said Towns and Stations.

The word " Road" shall mean any road, or thoroughfare, over which the public have a right of way, or any roadway over any public bridge or causeway, not being within the parts so specially defined.

The word " Land" shall include messuages, buildings, tenements, and hereditaments of any tenure.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The word " person" shall include a corporation.

The word " month" shall mean calendar month.

The word " oath" shall include any affirmation or declaration lawfully substituted for an oath.

The word " Magistrate" shall mean any Magistrate of Police acting for the Town or Station where the matter requiring the cognizance of a Magistrate arises.

The word " Owner" shall mean the person for the time being receiving the rent of the land or premises in connexion with which the words is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such land or premises were let to a tenant. Provided that, no person receiving the rent of land or premises as agent for another person, shall be liable to do any thing by this Act required to be done by the owner of such land or premises, unless he have sufficient funds of the owner to pay for the same ; nor shall he be subject to any penalty for omitting to do such act, if he can prove that the default was occasioned by reason of his not having funds of the owner sufficient to defray the expense of doing the act required.

**Commissioners
to appoint officers.**

III. The Municipal Commissioners may from time to time appoint all such officers as they shall think necessary and proper to assist in the execution of this Act; and may from time to time remove any of such officers and appoint others in their place; and may, out of the funds applicable to the purposes of this Act, with the sanction of the Local Government, pay such salaries to the said officers respectively as the Commissioners shall think reasonable. Provided that no person shall be appointed to, or removed from any office, the monthly salary of which exceeds two hundred Rupees, without the sanction of the Local Government.

**Property vested
in Commissioners.**

IV. All property, moveable and immoveable, purchased or otherwise acquired before the passing of this Act by the Commissioners or other persons, however designated, heretofore lawfully administering the funds applicable to the Conservancy and Improvement of the said Towns and Stations respectively, and now vested in them or in any persons in trust for them for any such purposes, shall, after the passing of this Act, be vested in the Municipal Commissioners for the said Towns and Stations respectively as trustees for the purposes of this Act.

**Streets and
roads vested in
the Commissioners.**

V. All public streets and roads (not being the property of the East India Company and kept under the control of the Local Government), existing at the time of the passing of this Act, or which shall afterwards be made, and the pavements, stones, and other materials thereof, and also all erections, materials, implements, and other things provided for such streets and roads, shall be vested in and belong to the Commissioners.

**Power to make
and improve
streets and roads.**

VI. The Commissioners, with the consent of the Local Government, may lay out and make new streets and roads, and may build and construct bridges and tunnels; and may turn, divert, discontinue, or stop up any public street or road; and may widen, open, enlarge, or otherwise improve any such street or road; making due compensation to the owners and occupiers of any land, houses, or buildings which may be required for any such purposes.

VII. In laying out new streets, in addition to the land required for the carriage-ways and foot-ways thereof, the Commissioners, with the consent of the Local Government, may purchase also the land necessary for the houses and buildings to form the said street, and may sell and dispose of the same with such stipulations and conditions as to the class and description of houses or buildings to be erected thereon as they shall think fit. Provided that, if any land be taken under the provisions of this Act, compensation shall be made to the owners for any damage which may be done thereby to any adjoining land or buildings of such owner.

Power to take land adjoining new streets for building purposes. Compensation.

VIII. The Commissioners may agree with the owners of any land for the absolute purchase thereof for the purpose of laying out and making new streets and roads, or of widening, enlarging, or otherwise improving any of the public streets or roads.

Power to purchase land for improving streets or roads.

IX. The Commissioners shall, so far as the funds at their disposal will admit, from time to time cause the public streets and roads to be maintained and repaired; and from time to time may cause the same to be paved, metalled, flagged, channelled, sewered, or otherwise improved, and the surface thereof to be raised, lowered, or altered, as they may think fit; and may also make and keep in repair any footways for the use of passengers in any such street or road, and also from time to time place on the sides of such footways or otherwise such fences and posts as may be needed for the protection of foot passengers.

Maintenance* and repair of streets and roads. Footways.

X. The Commissioners shall cause the streets, including the footways thereof, from time to time to be properly swept and cleansed; and the dust, dirt, ashes, rubbish, and filth of every sort found thereon, to be collected and removed.

Cleansing streets.

XI. The Commissioners may cause any number of moveable or fixed dust-boxes or other convenient receptacles, wherein dust, dirt, ashes, and rubbish may be temporarily deposited, until removed and carried away, to be provided

Dust Boxes in streets.

and placed in proper and convenient situations, and may require the occupiers of houses in streets to cause all such matter as aforesaid to be deposited daily, or otherwise periodically, in the said receptacles; and every person who, after such receptacles have been provided, and after such requisition as above mentioned, shall deposit, or cause or permit to be deposited, any such matter in any street, except in such receptacles, shall be liable to a penalty not exceeding ten Rupees.

Depositin dirt
on streets, &c.

XII. Whoever deposits, or permits his servants to deposit, any dust, dirt, dung, ashes, garden, kitchen, or stable refuse, or filth of any kind, or any animal matter, or any broken glass or earthen-ware or other rubbish, in any street, or on any public quay, jetty, ghaut, landing-place, or on any part of a river-bank, or of the sea-shore, whether above or below high-water mark, except in such places and in such manner, and at such hours as shall be fixed by the Commissioners, shall be liable to a penalty not exceeding ten Rupees.

Allowing sewer-
age to flow on
streets.

XIII. Whoever causes or allows the water of any sink or sewer, or any other offensive liquid matter belonging to him or being on his land, to run, drain, or be thrown or put upon any street, or causes or allows any offensive matter from any sewer or privy to run, drain, or to be thrown into a surface drain in any street, shall be liable to a penalty not exceeding ten Rupees.

Night-Soil, &c.

XIV. The Commissioners from time to time may fix the hours within which only it shall be lawful to remove any night-soil or other such offensive matter; and when the Commissioners have fixed such hours and given public notice thereof, whoever removes or causes to be removed along any street any such offensive matter at any time, except within the hours so fixed, and also whoever, at any time, whether such hours have been fixed by the Commissioners or not, uses for any such purpose any cart, carriage, or other receptacle or vessel not having a covering proper

for preventing the escape of the contents thereof or of the stench therefrom, or who slops or spills any such offensive matter in the removal thereof, or who does not carefully sweep and clean every place in which any such offensive matter has been slopped or spilled, or who places or sets down in any public place any vessel containing such offensive matter, or who drives or takes or causes to be driven or taken any cart, carriage, receptacle, or vessel used for any such purpose as aforesaid, through any street or by any route other than such as shall from time to time be appointed for that purpose by the Commissioners by public notice, shall be liable to a penalty not exceeding twenty Rupees.

XV. The Commissioners from time to time shall provide places convenient for the deposit of the night-soil, dung, and other filth, and the dust, dirt, ashes and rubbish, collected and removed under the authority of this Act; and for keeping all cattle, carts, implements, and other things required for the above or any of the purposes of this Act, and for any of such purposes, the Commissioners may purchase or take on lease any land or buildings by them considered necessary, or may cause any new building to be made upon any land to be purchased or hired by them.

Places of deposit for filth.

XVI. All dirt, dust, ashes, rubbish, sewerage, soil, dung, and filth, collected from the streets, houses, privies, sewers, and cesspools, shall be the property of the Commissioners, who shall have power to sell or dispose of the same as they may think proper, and the money arising from the sale thereof shall be applied to the purposes of this Act.

All rubbish, &c. to be the property of the Commissioners.

XVII. The Commissioners, so far as the funds at their disposal will admit, and so far as they may deem requisite for the public convenience, shall cause the public streets and roads to be watered; and for that purpose may provide such works and engines as they may think necessary.

Watering streets.

XVIII. The Commissioners, so far as the funds at their disposal will admit, shall provide lamps, lamp-posts, and such other means as they may deem necessary, for lighting such

Lighting streets.

of the public streets and roads as they shall consider to require lighting ; and shall cause the said lamps to be kept in fit order, and shall employ a sufficient number of persons to cleanse, prepare, and light the same ; and shall also from time to time increase or otherwise alter the number and situation of the said lamps, as to them shall appear necessary.

Future obstructions in streets or roads.

XIX. Whoever builds any wall, or erects or sets up any fence, rail, post, or other obstruction or encroachment, in any public street or road, or in or over any open drain, sewer, or aqueduct along the side of any such street or road after the passing of this Act, shall be liable to a penalty not exceeding one hundred Rupees ; and the Commissioners shall have power to remove any such obstruction or encroachment ; and the expense of such removal shall be paid by the person erecting the same, and shall be recoverable as hereinafter provided. Nothing herein contained shall prevent the Commissioners, with the concurrence of the Commissioner of Police, from allowing any temporary erections in any public street or road on occasions of festivals and ceremonies.

Temporary obstructions.

Making up pavements.

XX. Whoever displaces, takes up, or makes any alteration in the pavement, flags, or other materials, or in the fences or posts of any public street, without the consent in writing of the Commissioners, or without other lawful authority, shall be liable to a penalty not exceeding fifty Rupees.

Private persons laying out new streets.

XXI. Every person who intends to make or lay out any new street, shall give notice in writing thereof to the Commissioners, showing the intended level and width of such street ; and the level and width of every such street shall be fixed or approved by the Commissioners ; and whoever lays out, makes, or builds upon any such street, otherwise than in accordance with the level and width so fixed or approved, shall be liable to a penalty not exceeding five hundred Rupees ; and the Commissioners may, if they think fit, cause any such street, laid out or made at a level or width otherwise than in accordance with the level or width so fixed or approved as aforesaid, to be altered ; or may cause any building erected in

any such street otherwise than in accordance with such level and width, to be altered, or if necessary removed, and the expenses thereby incurred shall be paid to them by the offender and be recoverable as hereinafter provided. If no such level or width be fixed, and no approval or disapproval of the level or width proposed be signified by the Commissioners within one month, the intended street may be laid out and made upon the level and of the width specified in the notice.

XXII. It shall not be lawful for any person to erect in or near any street any hut, or any range or block of huts, on any plot or parcel of ground not previously built upon, or on which no huts are standing, without previous notice to the Commissioners; and the Commissioners may require such hut or huts to be built so that they may stand in regular lines with a free passage or way in front of each line, of such width as the Commissioners may think proper for salutary ventilation, and to facilitate scavengering, and at such a level as will admit of sufficient drainage. And if any such hut or huts be built without giving such notice to the Commissioners, or otherwise than as required by the Commissioners, the Commissioners may give notice to the builder or builders thereof to take down and remove the same within one month, and if such hut or huts be not taken down or removed according to such notice, the Commissioners may cause the same to be taken down and removed, and the expense incurred in doing so shall be paid by the said builder or builders, and shall be recoverable as hereinafter provided.

Erection of new huts to be under the control of the Commissioners.

XXIII. Whenever the Commissioners, by report of competent persons, are satisfied that any existing block of huts, in or near any street, is, by reason of the manner in which the huts are huddled together, or of the want of drainage and the impracticability of scavengering, attended with risk of disease to the inhabitants or the neighbourhood, they may, with the consent of the Local Government, cause a notice to be affixed to some conspicuous part of such block of huts

Power of the Commissioners as to the existing huts.

requiring the owners or occupiers thereof, within such reasonable time as may be fixed by the Commissioners for that purpose, to execute such operations as the Commissioners may deem necessary for the avoidance of such risk. And in case such owners or occupiers shall refuse or neglect to execute such operations within the time appointed, the Commissioners may cause the said huts to be taken down, or such operations to be performed in respect of such huts, as the Commissioners may deem necessary to prevent such risk. If such huts be pulled down, the Commissioners shall cause the materials of each hut to be sold separately, if such sale can be effected; and the proceeds shall be paid to the owner of the hut, or if the owner be unknown, or the title disputed, shall be held in deposit by the Commissioners until the person interested therein shall obtain the order of a competent Court for the payment of the same. The Courts of Small Causes for Calcutta, Madras, and Bombay, shall respectively be deemed competent Courts for that purpose.

Paving, &c., of private streets.

* XXIV. If any street (not being a public street), or any part thereof, be not levelled, paved, metalled, flagged, channelled, and sewered to the satisfaction of the Commissioners, they may, by notice in writing to the respective owners or occupiers of the premises fronting, adjoining, or abutting upon, such parts thereof as may need to be levelled, paved, metalled, flagged, channelled, and sewered, require them to level, metal, pave, flag, channel, and sewer the same within a time to be specified in such notice; and upon non-compliance, the Commissioners may, if they think fit, execute the works mentioned or referred to therein; and the expenses incurred by them in so doing shall be paid by the owners in default according to the frontage of their respective premises, and in such proportion as shall be settled by the Commissioners, or in case of dispute, as shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses; and such expense shall be recoverable as hereinafter provided. Provided always, that, after such street shall have been so levelled, paved, metalled, flagged, channelled, and sewered,

* Modified by Act XXV of 1857, Sec. 29.

Previous.

on the requisition of the Commissioners, or by the Commissioners as aforesaid, at the expense of the owners, such owners shall have a right to require that the street shall be declared a public street, to be from time to time repaired by the Commissioners out of the funds at their disposal for the purposes of this Act.

XXV. If any street (not being a public street) be levelled, paved, metalled, flagged, channelled, and sewered to the satisfaction of the Commissioners, they may, if they think fit, by notice in writing put up in any part of such street, declare the same to be a public street, and thereupon the same shall become a public street, and be from time to time repaired by them out of the funds at their disposal. Provided that no street shall become a public street as last aforesaid, if, within one month after such notice in writing, the owner of such street, or any one of the owners, shall, by notice in writing to the Commissioners, object thereto.

Certain streets to be deemed public and repaired by the Commissioners.

Proviso.

XXVI. The Commissioners may, upon such terms as they think fit, allow any house or building to be set forward for improving the line of any public street in which such house or building is situated.

Houses may be set forward.

XXVII. When any house or building, any part of which projects beyond the regular line of a public street, or beyond the front of the house or building on either side thereof, has been taken down in order to be re-built or altered, the Commissioners may require the same to be set back to or towards the line of the street or the line of the adjoining houses or buildings. Provided always, that the Commissioners shall make full compensation to the owner of any such house or building for any damage he may thereby sustain; and if any dispute shall arise touching the amount of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Houses projecting, when taken down, to be set back.

XXVIII. The Commissioners may, from time to time, cause to be put up or painted on a conspicuous part of such

Names of streets.

house, building, wall, or place at or near each end, corner, or entrance of every street, the name by which such street is to be known; and whoever destroys, pulls down, or defaces any such name, or puts up any name different from that put up by order of the Commissioners, shall be liable to a penalty not exceeding twenty Rupees.

Numbers on
houses.

XXIX. The Commissioners may from time to time fix a number in a conspicuous place on the outer side of any house, or building, or at the entrance of the enclosure thereof fronting the street; and whoever destroys, pulls down, or defaces any such number, shall be liable to a penalty not exceeding twenty Rupees.

Doors not to
open outwards.

XXX. All doors, gates, bars, and ground-floor windows put up after the passing of this Act, which open upon any public street, shall be hung or placed so as not to open outwards, except when the same are hung or placed in such manner as, in the judgment of the Commissioners, to cause no obstruction in any such street; and if (except as aforesaid) any such door, gate, bar, or window be hung or placed so as to open outwards on any such street, the owner of the premises to which the same is attached shall, within eight days after notice from the Commissioners to that effect, cause the same to be altered so as not to open outwards, and in case he neglects so to do, the Commissioners may make such alteration, and the expense thereof shall be paid by such owners, and shall be recoverable as hereinafter provided.

Doors opening
outwards to be
altered.

XXXI. If any door, gate, bar, or ground-floor window put up before the passing of this Act is hung or placed so as to open outwards upon any public street, the Commissioners may alter the same, so that no part thereof, when open, shall project over any such street so as to cause an obstruction.

Troughs and
pipes to be fixed
to houses.

XXXII. The owner of every house or building in any public street shall, within eight days after notice from the Commissioners to that effect, put up and keep in good condition proper troughs and pipes for catching and carrying

the water from the roof and other part of such house or building, and for discharging the same in such manner that it shall not fall upon the persons passing along the street; and in default of compliance with such notice within the period aforesaid, such owner shall be liable to a penalty not exceeding ten Rupees for every day that he shall so make default.

XXXIII. The Commissioners may give notice in writing to the owner or occupier of any house or building to remove or alter any projection, encroachment, or obstruction, which, after the passing of this Act, shall be erected or placed against or in front of such house or building, if the same overhangs, or juts into or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along any public street, or obstructs or projects or encroaches into or upon any uncovered aqueduct, drain, or sewer in such street; and such owner or occupier shall, within fourteen days after the service of such notice upon him, remove such projection, encroachment or obstruction, or alter the same in such manner as shall have been directed by the Commissioners; and in default thereof, shall be liable to a penalty not exceeding two hundred Rupees; and the Commissioners in such case may remove such projection, encroachment, or obstruction; and the expense of such removal shall be paid by the owner or occupier so making default, and shall be recoverable as hereinafter provided. Provided that, when the expense shall have been paid by the occupier, except in the case in which such projections, encroachments, or obstructions were made or put up by him, such occupier shall be entitled to deduct the expense of removing or altering the same from the rent payable by him to the owner of the house or building. Provided always, that the roofs or eaves of houses or buildings, sun-shades, weather frames, and the like, at a height not less than twelve feet above the surface of any street, may be projected to the extent of three feet over the same.

Future projections from houses to be removed.

Sun-shades, &c

XXXIV. The Commissioners may cause any such projection, encroachment or obstruction, erected or placed

Removal of existing projections.

against or in front of any house or building in any public street, before the passing of this Act, to be removed or altered as they think fit; provided that they give notice of such intended removal or alteration to the occupier of the house or building against or in front of which such projection, encroachment, or obstruction shall be, thirty days before such alteration or removal is begun; and if such projection, encroachment, or obstruction shall have been lawfully made, they shall make reasonable compensation to every person who suffers damage by such removal or alteration; and if any dispute shall arise touching the amount of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Commissioners may allow certain projections.

XXXV. The Commissioners may give permission in writing to the owners or occupiers of houses or buildings in public streets, the width of which is not less than twenty-five feet, to put up verandahs, balconies, sun-shades, weather-frames, and the like, to project from any upper-story thereof over the street, to an extent not exceeding four feet from the foundation, and, for special reasons, to allow such projections to be extended to five feet.

Roofs and external walls not to be of combustible materials.

XXXVI. The external roofs and walls of huts or other buildings erected or renewed in or near any street after the passing of this Act shall not be made of grass, leaves, mats, or other such inflammable materials; and it shall not be lawful for the owner of any hut or other building in or near any street now having an external roof or wall made of any such material, and which is contiguous to or adjoining to any other building, to suffer such roof or wall to remain for a longer time than two years after the passing of this Act, unless with the consent in writing of the Commissioners; and whoever makes any external roof or wall of such materials, or suffers any roof or wall made of such materials to continue contrary to the provisions herein contained, and who shall not remove or alter the same within one month after notice given to him for that purpose by the Commis-

sioners, shall be liable to a penalty not exceeding ten Rupees for every day that such roof or wall shall continue.

XXXVII. If in any street, any house, building, or wall, or any thing affixed thereon, be deemed by the Commissioners to be in a ruinous state or likely to fall, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings, or the occupiers thereof, or to passengers, they shall immediately, if it appears to them to be necessary, cause a proper board or fence to be put up for protection of passengers; and shall cause notice in writing to be given to the owner, if he be known and resident within the limits of their jurisdiction, and shall also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof, (if any) requiring such owner or occupier forthwith to take down, secure, or repair such house, building, wall, or thing affixed thereon, as the case shall require; and if such owner or occupier do not begin to repair, take down, or secure the same within three days after such notice, and complete such work with due diligence, the Commissioners shall cause all or so much of such house, building, wall, or thing as they shall think necessary, to be taken down, repaired, or otherwise secured; and all the expenses incurred by the Commissioners shall be paid by the owner of the premises, and shall be recoverable from him as hereinafter provided.

Houses in a ruinous and dangerous state.

XXXVIII. If any such house, building, or wall, or any part of the same, be pulled down by virtue of the powers aforesaid, the Commissioners may sell the materials thereof or of so much of the same as shall be taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore any overplus arising from such sale to the owner of such house, building, or wall on demand. The Commissioners, although they sell such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such

Sale of materials of ruinous houses.

sale, as by this Act are given to them for compelling the payment of the whole of the said expenses.

Power to shut
up and secure
deserted houses.

XXXIX. If any building or land, by reason of abandonment or of disputed ownership or other cause, shall remain untenanted and thereby become a resort of idle and disorderly persons, or be complained of by any two or more of the neighbours as a nuisance, the Commissioners, after due enquiry, may cause notice in writing to be given to the owner, or to the person claiming to be the owner, if he be known and resident within the limits of their jurisdiction, and shall also cause such notice to be put on the door of the building or some conspicuous part of the premises, requiring the persons concerned therein, whoever they may be, to secure or enclose the same; and if such notice shall not be complied with within eight days, the Commissioners shall cause the necessary work to be executed, and all expenses thereby incurred shall be paid by the owner of the premises and shall be recoverable as hereinafter provided.

Penalty on oc-
cupier of a house
not removing
filth.

XL. Whoever, being the occupier of a house in or near any street, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth, or any noxious or offensive matter, in or upon the roof of such house, or in any out-house, yard, or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom and to cleanse and purify the same, shall be liable to a penalty not exceeding fifty Rupees.

Filthy houses,
&c.

XLI. Whoever, being the owner or occupier of any house, building, or land, in or near any street, whether tenanted or otherwise, suffers the same to be in a filthy and unwholesome state, or overgrown with rank and noisome vegetation, shall be liable to a penalty not exceeding fifty Rupees, and to a penalty not exceeding five Rupees for every day after conviction for such offence during which the offence is continued,

XLII. The Commissioners may give notice to the owner or occupier of any land to trim or prune the hedges thereof bordering any public road or street, so that they may not exceed the height of seven feet from the level of the road; and to cut and trim all trees overhanging any public road or street so as to obstruct the passage or to cause damage thereto; and in the event of such notice not being complied with within eight days from the date thereof, the Commissioners may cause the said hedges and trees to be cut and trimmed in the manner required; and the expense incurred by the Commissioners in respect thereof shall be paid to them by the owners and shall be recoverable as hereinafter provided.

Power to trim hedges and trees bordering roads.

XLIII. Whoever keeps any pig-stye to the front of any street, not being shut out therefrom by a sufficient wall or fence, or shall keep any swine in or near any street, so as to be a nuisance to the neighbourhood; or who shall, without the permission of the Commissioners, keep more than twenty sheep or goats, or ten horned cattle, in or near any street, shall be liable to a penalty not exceeding fifty Rupees.

Keeping swine, &c. in or near any street.

XLIV. All public sewers and drains, and all sewers, drains, tunnels, and culverts in, alongside, and under the streets and roads existing at the time of the passing of this Act, or afterwards made, and whether made at the cost of the Commissioners or otherwise, and all works, materials, and things appertaining thereto, shall be vested in and belong to the Commissioners.

Sewers, drains, &c. vested in the Commissioners.

XLV. The Commissioners, so far as the funds at their disposal will admit, shall from time to time cause to be made such main and other sewers as they may judge necessary for the effectual draining of the Town or Station under their authority; and, if needful, they may carry such sewers through, across, or under any street, or any place laid out as or intended for a street, or any cellar or vault which may be under any of the streets, and (after reasonable notice in writing in

Commissioners to make public sewers.

that behalf) into, through, or under any inclosed or other lands whatsoever, doing as little damage as may be, and making full compensation for any damage done ; and if any dispute shall arise touching the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Commissioners
to repair and
alter and discon-
tinue sewers.

XLVI. The Commissioners shall maintain, and from time to time repair, and as they see fit enlarge, alter, arch over, or otherwise improve all or any of the sewers and drains vested in them by this Act ; and may discontinue, close up, or destroy such of them as they may deem useless or unnecessary. Provided always, that the discontinuance, closing up, or destruction of any sewer or drain shall be so done as not to create a nuisance ; and if, by reason thereof, or of any such alteration as hereinbefore mentioned, any person is deprived of the lawful use of any sewer or drain, the Commissioners shall, with due diligence, provide some other sewer or drain as effectual for his use as the one of which he is so deprived.

Cleansing and
emptying sewers.

XLVII. The Commissioners, so far as the funds at their disposal will admit, shall cause the sewers and drains belonging to them to be so constructed, maintained, and kept, as not to be a nuisance or injurious to health, and to be properly cleared, cleansed, and emptied ; and for the purpose of flushing, cleansing, and emptying the same, they may construct and place, either above or under-ground, such reservoirs, sluices, engines, and other works as may be necessary ; and they may also with the consent of the Local Government cause all or any of such sewers and drains to communicate with and be emptied into the sea or any public river (as the case may admit) or other fit place ; or they may cause the refuse from such sewers and drains to be conveyed by a proper channel to the most convenient site for its deposit, and may sell the same for any agricultural or other purposes as may be deemed most expedient, but so that the same shall not become a nuisance.

XLVIII. When the contents of any sewer or drain or any other flow or filth or refuse are discharged into any river or stream, in the bed or channel of which the quantity of water at any season of the year is so much diminished by natural or artificial causes as to be insufficient to keep such channel clean or clear, the Commissioners shall, with the consent of the Local Government, so far as the funds at their disposal will admit, make such alteration in the bed of such river or stream as may prevent such sewer and drain-water from spreading over the surface of such bed, or from accumulating and stagnating in parts thereof to the injury of health or the annoyance of the surrounding population.

Bed of stream receiving sewerage to be cleared.

XLIX. Whoever, without the written consent of the Commissioners first obtained, makes or causes to be made any drain into any of the sewers or drains vested in them by this Act, shall be liable to a penalty not exceeding one hundred Rupees; and the Commissioners may cause such branch-drain to be demolished, altered, re-made, or otherwise dealt with as they think fit; and all the expense incurred thereby shall be paid by the person making such branch-drain, and shall be recoverable as hereinafter provided.

Penalty for making unauthorised drains into public sewers.

L. No building shall be newly erected over any sewer or drain vested in the Commissioners by this Act, without their written consent; and if any building be so erected, the Commissioners may cause the same to be pulled down, or otherwise dealt with as they may think fit; and the expenses thereby incurred shall be paid by the person offending and be recoverable as hereinafter provided.

Building over sewers, &c., not to be erected without consent of Commissioners.

LI. If any house or building, in or near any street, be at any time not drained to the satisfaction of the Commissioners by a sufficient drain or pipe communicating with some sewer, or with the sea, or some public river or other place at which the Commissioners are empowered to empty their sewers, and if there be such means of drainage within one hundred feet of any part of such house or building the Commissioners may construct or lay from such house or building a covered drain or pipe of such material of such size, at such

Commissioners empowered to make drains from houses in or near street, which are not properly drained.

level, and with such fall as they think necessary for the draining of such house or building; and the expenses incurred by the Commissioners in respect thereof, if not forthwith paid by the owner, shall be recoverable as hereinafter directed. Provided that the cost of executing such work shall not, without the consent of the owner, exceed the amount of three months' rent of the house or building. *

Level of houses hereafter built in or near streets.

LII. No house or building shall be hereafter built in or near any street upon a lower level than will allow of the drainage of such house or building being led into some public sewer either then existing or projected by the Commissioners, or into the sea, or some public river or other place into which the Commissioners are empowered to empty their sewers.

Houses hereafter built in or near streets to have drains constructed under the orders of the Commissioners.

LIII. If any house or building, newly erected or re-built in or near any street after the passing of this Act, have such means of drainage, as in the last preceding Section mentioned, existing within one hundred feet thereof, the owner shall make a drain leading thereunto from the site of such house or building, of such materials, of such size, at such level, and with such fall as the Commissioners may direct; and if he neglect to do so within a reasonable time, the Commissioners may cause the same to be done, and the expenses thereby incurred shall be paid by the owner, and shall be recoverable as hereinafter provided.*

* Modified by Act XXVIII, 1857, s. 28.

Notice of new buildings in or near streets to be given to Commissioners.

LIV. Before beginning, in or near any street, to build or re-build any house, the person intending to build or re-build such house shall give to the Commissioners notice thereof in writing, and shall accompany such notice with a plan showing the levels at which the foundation and lowest floor of such house are proposed to be laid by reference to some level ascertained under the direction of the Commissioners.

Commissioners to signify disapproval within 14 days.

LV. Within fourteen days after receiving such notice, the Commissioners may signify their disapproval of the proposed levels and fix other levels in lieu thereof.

Houses built without notice, or contrary to pro-

LVI. If such building be begun or made without sending such notice and plan, or at any levels different from those

XLVIII. When the contents of any sewer or drain or any other flow or filth or refuse are discharged into any river or stream, in the bed or channel of which the quantity of water at any season of the year is so much diminished by natural or artificial causes as to be insufficient to keep such channel clean or clear, the Commissioners shall, with the consent of the Local Government, so far as the funds at their disposal will admit, make such alteration in the bed of such river or stream as may prevent such sewer and drain-water from spreading over the surface of such bed, or from accumulating and stagnating in parts thereof to the injury of health or the annoyance of the surrounding population.

Bed of stream receiving sewerage to be cleared.

XLIX. Whoever, without the written consent of the Commissioners first obtained, makes or causes to be made any drain into any of the sewers or drains vested in them by this Act, shall be liable to a penalty not exceeding one hundred Rupees; and the Commissioners may cause such branch-drain to be demolished, altered, re-made, or otherwise dealt with as they think fit; and all the expense incurred thereby shall be paid by the person making such branch-drain, and shall be recoverable as hereinafter provided.

Penalty for making unauthorized drains into public sewers.

L. No building shall be newly erected over any sewer or drain vested in the Commissioners by this Act, without their written consent: and if any building be so erected, the Commissioners may cause the same to be pulled down, or otherwise dealt with as they may think fit; and the expenses thereby incurred shall be paid by the person offending and be recoverable as hereinafter provided.

Building over sewers, &c., not to be erected without consent of Commissioners.

LI. If any house or building, in or near any street, be at any time not drained to the satisfaction of the Commissioners by a sufficient drain or pipe communicating with some sewer, or with the sea, or some public river or other place at which the Commissioners are empowered to empty their sewers, and if there be such means of drainage within one hundred feet of any part of such house or building the Commissioners may construct or lay from such house or building a covered drain or pipe of such materials, of such size, at such

Commissioners empowered to make drains from houses in or near street, which are not properly drained.

level; and with such fall as they think necessary for the draining of such house or building; and the expenses incurred by the Commissioners, in respect thereof, if not forthwith paid by the owner, shall be recoverable as hereinafter directed. Provided that the cost of executing such work shall not, without the consent of the owner, exceed the amount of three months' rent of the house or building.

Level of houses hereafter built in or near streets.

LII. No house or building shall be hereafter built in or near any street upon a lower level than will allow of the drainage of such house or building being led into some public sewer either then existing or projected by the Commissioners, or into the sea, or some public river or other place into which the Commissioners are empowered to empty their sewers.

Houses hereafter built in or near streets to have drains constructed under the orders of the Commissioners.

LIII. If any house or building, newly erected or re-built in or near any street after the passing of this Act, have such means of drainage, as in the last preceding Section mentioned, existing within one hundred feet thereof, the owner shall make a drain leading thereunto from the site of such house or building, of such materials, of such size, at such level, and with such fall as the Commissioners may direct; and if he neglect to do so within a reasonable time, the Commissioners may cause the same to be done, and the expenses thereby incurred shall be paid by the owner and shall be recoverable as hereinafter provided.

Notice of new buildings in or near streets to be given to Commissioners.

LIV. Before beginning, in or near any street, to build or re-build any house, the person intending to build or re-build such house shall give to the Commissioners notice thereof in writing, and shall accompany such notice with a plan showing the levels at which the foundation and lowest floor of such house are proposed to be laid by reference to some level ascertained under the direction of the Commissioners.

Commissioners to signify disapproval within 14 days.

LV. Within fourteen days after receiving such notice, the Commissioners may signify their disapproval of the proposed levels and fix other levels in lieu thereof.

Houses built without notice, or contrary to pro-

LVI. If such building be begun or made without sending such notice and plan, or at any levels different from those

or taken against any such owner or not, require the payment of all or any part of the expenses payable by the owner for the time being from the person who then or at any time thereafter occupies the building or land under such owner, and, in default of payment thereof by such occupier on demand, the same may be levied by distress of the goods and chattels of such occupier; and every such occupier shall be entitled to deduct from the rent payable by him to his landlord so much as is so paid by or recovered from him in respect of any such expenses.

LXX. No occupier of any building or land shall be liable to pay more money, in respect of any expenses charged by this Act on the owner thereof, than the amount of rent due from him for the premises in respect of which such expenses are payable at the time of the demand made upon him, or which, at any time after such demand has accrued and become payable by him, unless he neglect or refuse, upon application made to him for that purpose by the Commissioners, truly to disclose the amount of his rent and the name and address of the person to whom such rent is payable; but the burden of proof that the sum demanded of any such occupier is greater than the rent which was due by him at the time of such demand or which has since accrued, shall lie upon such occupier; provided further, that nothing herein contained shall be taken to affect any special contract made between any such owner or occupier respecting the payment of the expenses of any such works as aforesaid.

Occupier not to be liable for more than the amount of rent due.

LXXI. Whenever default is made by the owner of any building or land in the execution of any work required to be executed by him, the occupier of such building or land may, with the approval of the Commissioners, cause such work to be executed, and the expense thereof shall be paid to him by the owner, and the amount may be deducted out of the rent from time to time becoming due from him to such owner.

Occupier, in default of owner, may execute works and deduct expenses from his rent.

LXXII. If the occupier of any building or land prevent the owner thereof from carrying into effect, in respect

Proceedings in case of tenants opposing the execution of this Act.

of such building or land, any of the provisions of this Act after notice of his intention so to do has been given by the owner to such occupier, any Magistrate, upon proof thereof, may make an order in writing requiring such occupier to permit the owner to execute all such works with respect to such building or land as may be necessary for carrying into effect the provisions of this Act ; and if, after the expiration of eight days from the date of the order, such occupier continue to refuse to permit such owner to execute such works, such occupier shall, for every day during which he so continues to refuse, be liable to a penalty not exceeding fifty Rupees ; and every such owner, during the continuance of such refusal, shall be discharged from any penalties to which he might otherwise have become liable by reason of his default in executing such works.

Tanks, &c., vested in the Commissioners.

LXXIII. All public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps and other water-works existing at the time of the passing of this Act or afterwards made, and whether made at the cost of the Commissioners or otherwise ; and all bridges, buildings, engines, works, materials, and things connected therewith or appertaining thereto ; and also any adjacent land (not being private property) appertaining to any public tank, shall be vested in and belong to the Commissioners.

Construction and maintenance of works for supply of water.

LXXIV. The Commissioners shall cause all existing public tanks, reservoirs, cisterns, wells, aqueducts, conduits, tunnels, pipes, pumps, and other water-works used for the supply of water to the inhabitants or for the other purposes mentioned in this Act, to be continued, maintained, and supplied with water ; or they shall substitute other such works and shall cause them to be maintained and supplied with water ; and the Commissioners, from time to time, with the consent of the Local Government, may construct aqueducts for bringing water into the Town or Station under their authority, and may provide any number of new tanks, reservoirs, cisterns, wells, and other such water-works for the purposes aforesaid.

the Commissioners in respect thereof shall be paid by the owner, and shall be recoverable as hereinafter provided.

LXV. If any such drain, privy, or cess-pool is constructed, after the passing of this Act, contrary to the directions and regulations of the Commissioners, or contrary to the provisions of this Act; or, if any person, without the consent of the Commissioners, constructs, re-builds, or un-stops, any drain, privy, or cess-pool which has been ordered by them to be demolished or stopped up, or not to be made, every person so doing shall be liable to a penalty not exceeding fifty Rupees; and the Commissioners may cause such amendment or alteration to be made in any such drain, privy, or cess-pool as they think fit; and the expense thereof shall be paid by the person by whom such drain, privy, or cess-pool was improperly constructed, re-built, or un-stopped, and shall be recoverable from him as hereinafter provided.

Penalty for persons making or altering drains, &c., contrary to orders.

LXVI. The Commissioners, or any officer appointed by them for the purpose, may inspect any such drain, privy, or cess-pool, and for that purpose, at all reasonable times in the daytime, after twenty-four hours' notice in writing to the occupier of the premises to which such drain, privy, or cess-pool is attached, may enter upon any lands and buildings with such assistants and workmen as are necessary, and cause the ground to be opened where they or he may think fit, doing as little damage as may be; and if, upon such inspection, it appears that the drain, privy, or cess-pool is not in good order and condition, or that it has been constructed after the passing of this Act contrary to the provisions thereof, the expenses of such inspection shall be paid by the person to whom such drain, privy, or cess-pool may belong; but if the drain, privy, or cess-pool be found to be in proper order and condition and not to have been constructed in violation of the provisions of this Act, the Commissioners or officer as aforesaid shall cause the ground to be closed and made good as soon as may be; and the expenses of opening, closing, and making good such drain, privy, or cess-pool

Inspection of drains, privies, and cess-pools.

Proviso.

shall, in that case, be defrayed by the Commissioners. Provided always, that nothing herebefore contained shall authorize an entry into the zenanas or private apartments appropriated to the females of Hindoo and Mussulman families for the purpose of such inspection, except by the agency of women.

**Service of notice
on owners and occu-
piers of build-
ing and lands.**

LXVII. Where any notice is required by this Act to be given to the owner or occupier of any building or land, such notice, addressed to the owner or occupier, as the case may require, may be served on the occupier of such building or land, or left with some adult male member or servant of his family, or, if the notice cannot be so served, or if there be no occupier, may be put up on some conspicuous part of such building or land, and it shall not be necessary in any such notice to name the occupier or the owner. Provided always, that, when the owner and his residence are known to the Commissioners, it shall be their duty, if such owner be residing within the Town or Station under their authority, to cause every notice required to be given to the owner of any building or land, to be served on such owner or left with some adult male member or servant of his family; and, if the owner be not resident within the Town or Station, they shall send every such notice by the Post addressed to his residence.

**Commissioners,
in default of
owner or occu-
pier, may execute
works.**

LXVIII. Whenever under the provisions of this Act any work is required to be executed by the owner or occupier of any building or land, and default is made in the execution of such works, the Commissioners, whether any penalty is or not provided for such default, may cause such work to be executed; and the expense thereby incurred shall be paid to them by the person by whom such work ought to have been executed, and shall be recoverable as hereinafter provided.

**Power to levy
charges on occu-
pier, who may
deduct the same
from his rent.**

LXIX. If the defaulter be the owner of the building or land, the Commissioners may, by way of additional remedy, whether any action or proceeding has been brought

LXXV. The Commissioners shall, so far as the funds at their disposal will admit, cause all necessary works, machinery, and assistance for securing an efficient supply of water in cases of fire, to be provided and maintained.

Supply of water in cases of fire.

LXXVI. Whoever, except as permitted by the Commissioners under Section LXXIX, bathes in any stream, tank, reservoir, well, cistern, conduit, or aqueduct belonging to the Commissioners ; or washes or causes to be washed therein, any horse, dog, or other animal, or any wool, cloth, or wearing apparel, or any utensils for cooking or other purposes, or leather, or the skin of any animals, or other foul or offensive thing ; or throws, puts, or casts, or causes to enter therein, any animal or any gravel, stone, dust, or rubbish, or any dirt, filth, or other noisome or offensive matter or thing ; or causes or suffers to run, drain, or be brought thereinto, the water of any sink, sewer, drain, engine, or boiler, or any other unwholesome or offensive liquid matter or thing belonging to him, or flowing from any house or building or from any ground occupied by him ; or does any thing whatsoever whereby any such water shall be in any degree fouled or corrupted—shall be liable to a penalty not exceeding fifty Rupees.

Fouling water by—Bathing, Washing, Throwing rubbish, &c. Allowing drains, &c., to flow.

LXXVII. Whoever, being the proprietor of any gas-works, or being engaged or employed in the manufacture or supply of gas, or being the occupier or proprietor of any place where an offensive trade or manufacture is carried on, wilfully does any act connected with the said business, whereby the water in any stream, tank, reservoir, well, cistern, conduit, aqueduct, or other water-works belonging to the Commissioners, is fouled or corrupted, shall be liable to a penalty not exceeding one thousand Rupees, and to a further penalty, not exceeding five hundred Rupees, for every day while the offence is continued after twenty-four hours' notice in writing from the Commissioners in this behalf ; and the Commissioners may, after twenty-four hours' notice in writing, lay open and examine any pipes, conduits, and works belonging to such person ; and if, upon such examination, it appears that the water has been fouled or corrupted by any thing proceed-

Water fouled by offensive trades.

ing from or contained in the pipes, conduits, or works examined, the expenses of such examination shall be paid by the person to whom such pipes, conduits, or works belong, or under whose management or control they may be, and be recoverable from him as hereinafter provided ; but if it appear that the water has not been so fouled or corrupted, then such expenses, and all reasonable damages occasioned by the examination, shall be paid by the Commissioners.

Injuring water-works or diverting or washing water.

LXXVIII. Whoever wilfully or carelessly injures any water-works belonging to the Commissioners, or unlawfully draws off, diverts, or takes water from any such water-works, or from any waters or streams belonging to the Commissioners by which such water-works are supplied, shall be liable to a penalty not exceeding one hundred Rupees.

Commissioners may set apart bathing places, &c

LXXIX. The Commissioners may, at their discretion, set apart any public ghaut or place, or any part of the Seashore, or of the strand of any river (not being private property,) for the purpose of being used as a bathing place ; and may also provide or set apart a sufficient number of convenient tanks or runs of water for the inhabitants to bathe in ; and may also set apart tanks or reservoirs or runs of water for washing animals or clothes, or for any other purpose connected with the health, cleanliness, and comfort of the inhabitants.

Bye-laws to regulate use of water—and of bathing places

LXXX. The Commissioners may, in the manner hereinafter provided, make bye-laws—

For regulating all or any matters and things whatsoever connected with the water to be supplied by them and the use of such water for any of the purposes mentioned in this Act—

And for regulating the time and place of bathing for persons of each sex in the places provided or appointed by them for the purpose of bathing, in such manner as shall appear to the Commissioners necessary, making due allowance for the habits and customs of the country.

Power to fill up unwholesome tanks on private premises.

LXXXI. When any private tank or low marshy ground, or any waste or stagnant water, being within any pri-

vate enclosure, appears to the Commissioners to be injurious to health, or to be offensive to the neighbourhood, it shall be lawful for the Commissioners to require, by notice in writing, the owner of the said premises to cleanse or fill up such tank or marshy ground, or to drain off or remove such stagnant water; and if he shall refuse or neglect to comply with such requisition during eight days from the service thereof, the Commissioners, their officers, and workmen, may enter into the said premises and do all necessary acts for all or any of the purposes aforesaid as they shall think fit; and the expense incurred thereby shall be paid by the owner of such premises, and shall be recoverable as hereinafter provided.

LXXXII. The Commissioners are hereby empowered, from time to time as they shall see fit, to drain off into any sewers, and cleanse and fill up or otherwise abate, any stagnant pool, ditch, tank, pond, or other receptacle of water (the same not being within any private enclosure) which shall appear to them to be useless or unnecessary or likely to prove injurious to the health of the inhabitants, whether the same be the private property of any person or otherwise; and the Commissioners, their officers, and workmen, may do all necessary act for effecting any of the purposes aforesaid.

LXXXIII. The Commissioners, in executing any works directed or authorized by this Act to be made, shall provide and make, at their own expense, a sufficient number of convenient ways, water-courses, drains, and channels in the place of such as may be interrupted, injured, or rendered useless by reason of the execution of such works; and in case of any difference arising between the Commissioners and the persons affected thereby, such difference shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

LXXXIV. When the pavement or surface of any street or when any sewer or drain, shall be opened or broken up by the Commissioners, their officers, or servants, they shall, with all convenient speed, complete the work on account of which

Power to drain
off and cleanse
stagnant pool-
in open places.

Commissioners
in executing
works to provide
roads, &c., where
existing ones in-
jured.

Commissioners
breaking up
street to restore
the same with
all convenient
speed.

the same shall have been broken up, and fill in the ground and make good the pavement and surface, and the sewer or drain, so opened or broken up, and carry away the rubbish occasioned thereby; and shall, in the meantime, cause the place where such pavement or surface shall be so opened or broken up, to be fenced and guarded, and sufficiently lighted during the night.

Situation of gas and water-pipes to be altered at the expense of the Commissioners.

LXXXV. If the Commissioners deem it necessary for the purposes of this Act, to raise, sink, or otherwise alter the situation of any water-pipe or gas-pipe, or other water-works or gas-works laid in any of the streets, they may from time to time, by notice in writing, require the person to whom any such pipes or works belong or under whose control they may be, to cause forthwith, or as soon as conveniently may be, any such pipes or works to be raised, sunk, or otherwise altered in position in such manner as the Commissioners direct; provided that such alteration be not such as permanently to injure such works, or to prevent the water or gas from flowing as freely and conveniently as before; and the expenses attending such raising, sinking, or altering, and full compensation for the damage done thereby, shall be paid by the Commissioners, as well as to the persons to whom such pipes or works belong as to all other persons. And if any dispute shall arise touching the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

If owner, &c., neglect to make alterations, the Commissioners may cause the same to be done.

LXXXVI. If the person to whom any such pipes or works belong, or under whose control they may be, do not proceed forthwith, or as soon as conveniently may be after the receipt of such notice, to cause the same to be raised, sunk, or altered, in such manner as the Commissioners require, the Commissioners may themselves cause such pipes or works to be raised, sunk, or altered as they think fit; provided that such works be not permanently injured thereby, or the water or gas prevented from flowing as freely and conveniently as before.

LXXXVII. Every person intending to build or take down any building or to alter or repair the outward part of any building, where any street or footway will be obstructed or rendered inconvenient by means of such work, shall, before beginning the same, and having first obtained a license in writing from the Commissioners so to do, cause sufficient boards or fences to be put up, in order to separate the building where such works are being carried on from the street or footway, and shall continue such board or fence standing and in good condition, to the satisfaction of the Commissioners, during such time as the public safety or convenience requires, and shall cause the same to be sufficiently lighted during the night; and every such person who begins to build, or take down, or alter, or repair, any building contrary to the provisions of this Section, or who, without license, erects or sets up any boards, scaffolding, or fence whatsoever, or who, being licensed, fails to put up such fence or board, or to continue the same standing and in good condition as aforesaid during the time aforesaid, or who does not, while the said board or fence is standing, keep the same sufficiently lighted during the night, or who does not remove the same, when directed by the Commissioners, within a reasonable time afterwards, shall be liable to a penalty not exceeding fifty Rupees, and a further penalty, not exceeding fifty Rupees, for every day while the offence is continued after twenty-four hours' notice from the Commissioners.

Boards to be
put up during
repairs.

LXXXVIII. The Commissioners shall, during the construction or repair of any of the streets, sewers, or drains vested in them, take proper precaution for guarding against accident, by shoring up and protecting the adjoining houses, and shall cause such bars, chains, or posts to be fixed across or in any of the streets or roads to prevent the passage of carriages, carts, or other vehicles, cattle or horses, while such works are carried on, as to them shall seem proper; and the Commissioners shall cause any sewer or drain or other works in streets, during the construction or repair thereof by them, to be sufficiently lighted and guarded during the night; and

Bars to be
erected across
streets during
repairs, and
lights to be plac-
ed at night.

whoever takes down, alters, or removes any of the said bars, chains, or posts, or extinguishes any light, without the authority or consent of the Commissioners, shall be liable to a penalty not exceeding fifty Rupees.

Penalty for not lighting deposits of building materials or excavations.

LXXXIX. No persons shall deposit any building materials, or make a hole in any street, without the permission of the Commissioners; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure; and shall cause the same to be sufficiently lighted during the night; and whoever deposits materials or makes a hole without such permission, or fails to fence or enclose and light such materials or hole, or does not remove such materials or fill up such hole when the permission has been withdrawn, shall be liable to a penalty not exceeding fifty Rupees, and a further penalty not exceeding fifty Rupees for every day while the offence is continued, after twenty-four hours' notice from the Commissioners.

Dangerous places near streets to be repaired or enclosed

XC. If any building, tank, well, or hole, or other place, be, for want of sufficient repair, protection, or enclosure, dangerous to passengers, the Commissioners shall cause the same to be repaired, protected, or enclosed so as to prevent danger therefrom; and the expenses of such repair, protection, or enclosure shall be paid to the Commissioners by the owner of the property so repaired, protected, or enclosed, and shall be recoverable as hereinafter provided.

Slaughter-houses within certain limits to be registered.

XCI. Within the parts of any of the said Towns and Stations which shall be specially prescribed by the Local Government for the purpose, every place used as a slaughter-house shall, within three months after the passing of this Act, be registered by the owner or occupier at the office of the Commissioners in a book to be kept by them for that purpose, and whoever, after the expiration of that time and after eight days' notice from the Commissioners, uses or permits to be used within the limits so prescribed, any slaughter-

house without its being registered, shall be liable to a penalty not exceeding fifty Rupees, for every day during which such place shall be so used without having been registered.

XCII. If it be shown to the satisfaction of the Commissioners that any place used as a slaughter-house within the said limits is a nuisance to the neighbourhood, they may give notice to the occupier to discontinue such use thereof within one month; and whoever, after the expiration of that time, uses such place or permits it to be used as a slaughter-house, shall be liable to a penalty not exceeding fifty Rupees for every day during which it shall be so used. Provided that the Commissioners shall make reasonable compensation for any damage that may be caused thereby to the occupier or owner; and if any dispute shall arise touching the amount of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses.

Commissioners may order existing Slaughter-houses to be discontinued, making compensation.

XCIII. No place shall be used as a slaughter-house within the prescribed limits which was not in such use at the time of the passing of this Act, and has not so continued ever since, unless and until a license in writing for the use thereof as a slaughter-house has been obtained from the Commissioners, who are hereby empowered, at their discretion, from time to time to grant such licenses; and whoever, without such license, uses as a slaughter-house any place within such limits not used as such at the time of the passing of this Act and so continued to be used ever since, shall be liable to a penalty not exceeding one hundred Rupees, and a penalty not exceeding fifty Rupees, for every day after the conviction for such offence, during which the said offence is continued.

No slaughter-houses to be newly set up without license.

XCIV. The Commissioners may from time to time, if they shall think fit, with the consent of the Local Government, provide places for the purpose of being used as slaughter-houses, and they shall make bye-laws for and with respect to the management and charges for the use of such places.

Commissioners to provide places for slaughter-houses.

Markets, slaughter-houses, &c., to be properly drained.

XCV. Every owner, occupier, or farmer of any market for the sale of butcher's meat, poultry, fish, or vegetables, or of any slaughter-house within the prescribed limits, shall cause such drains to be made therein as shall be considered sufficient by the Commissioners, and (if required so to do by the Commissioners) shall cause all the floors and drains to be paved with stone or burnt brick, and shall also cause a supply of water to be provided sufficient for keeping such market or slaughter-house in a clean and wholesome state; and if such owner, occupier, or farmer, after notice in writing given to him by the Commissioners that such market or slaughter-house is defective in any of the said particulars, and requiring him to remedy the defect specified within a reasonable time, which shall not be less than one month, makes default therein, he shall be liable to a penalty not exceeding fifty Rupees, for every day during which such default is continued.

Commissioners may make bye-laws for the inspection of slaughter-houses.

XCVI. The Commissioners may, in manner hereinafter provided, make bye-laws for the inspection of all such markets and of all slaughter-houses within the prescribed limits, and for the management and conduct of the business therein, and for keeping the same in a cleanly and proper state, and for removing filth at least once in every twenty-four hours.

Keeping unwholesome food in market, or in shops.

XCVII. Whoever keeps in any market, shop, building, stall, or place used for the sale of butcher's meat, poultry, fish, or vegetables, or exposes or allows to be exposed for sale in any other place or way, any animal, carcase, meat, poultry, game, flesh, fish, or vegetable which is unfit for the food of man, shall be liable to a penalty not exceeding one hundred Rupees.

Sale of unwholesome food or drink.

XCVIII. Whoever sells, or offers or exposes for sale, within any of the said Towns and Stations, as food or drink for man, any article which has been rendered or has become noxious or unfit for such use, knowing or having reason to believe the same to be noxious or unfit for such use, shall

be liable to a penalty not exceeding three hundred Rupees, and such article shall be forfeited and disposed of as the Magistrate shall direct; and it shall be lawful for any Magistrate, on the application of the Commissioners or any of their officers, setting forth that there is just cause to believe that any such article is in the possession of any person for the purpose of being sold or offered or exposed for sale as aforesaid, to grant a warrant to enter upon the premises of such person and to search for and seize such article, and if it appear to the Magistrate, upon the evidence of a competent person, that the same is noxious or unfit for such use, he shall order such article to be forfeited and disposed of in such way as to him shall seem proper.

XCIX. The Commissioners or any person appointed by them for that purpose, may at all reasonable times, with or without assistants, enter into and inspect any market, building, shop, stall, or place used for the sale of butcher's meat, poultry, fish, or vegetables, or as a slaughter-house, and may examine any animal, carcase, meat, poultry, game, flesh, fish, or vegetables which may be therein; and in case any animal, carcase, meat, poultry, game, flesh, fish, or vegetables appear to be intended for the food of man and to be unfit for such food, may seize the same; and if it appear to a Magistrate, upon the evidence of a competent person, that such animal, carcase, meat, poultry, game, flesh, fish, or vegetables is unfit for the food of man, he shall order the same to be destroyed or to be so disposed of as to prevent its being exposed for sale or used for such food, and the owner thereof, or the person in whose possession the same is found, shall be liable to a penalty not exceeding one hundred Rupees.

Power to inspect slaughter-houses, shops, &c., and to seize unwholesome articles exposed for sale.

C. The Magistrate, before whom any person is convicted of an offence contrary to the provisions of this Act relating to slaughter-houses, or of the non-observance of any of the bye-laws relating thereto made by virtue of this Act, in addition to the penalty imposed on such person under the authority of this Act, may suspend, for any period not exceed-

Suspension or of revocation license, &c.

ing two months, the license granted to such person under this Act ; or in case such person be the owner or occupier of any registered slaughter-house may forbid, for any period not exceeding two months, the slaughtering of cattle therein ; and the Magistrate, upon the conviction of any person for a second or other subsequent like offence, in addition to the penalty imposed under the authority of this Act, may declare the license granted under this Act revoked, or if such person be the owner or occupier of any registered slaughter-house, may forbid absolutely the slaughtering of cattle therein.

Penalty for using slaughter-houses during suspension or revocation of license.

CL. Whoever, during the period for which any such license is suspended or after the same is revoked as aforesaid, slaughters cattle, or allows cattle to be slaughtered, in the slaughter-house to which such license relates, and whoever during the period that the slaughtering of cattle in any such registered slaughter-house is forbidden as aforesaid, or after such slaughtering has been absolutely forbidden therein, slaughters cattle, or allows cattle to be slaughtered, in any such registered slaughter-house, shall be liable to a penalty not exceeding fifty Rupees, for every day after the conviction for such offence, during which the said offence is continued.

Offensive and dangerous trades existing within certain limits to be registered.

CII. Within the parts of any of the said Towns and Stations which shall be specially prescribed by the Local Government for the purpose, the owner or occupier of every place used at the time of the passing of this Act for any of the following purposes, namely, for melting tallow—or for boiling offal or blood—or as a soap house—oil-boiling house,—dyeing house—tannery—brick, pottery, or lime,—kiln—sago manufactory—or other manufactory or place of business from which offensive or unwholesome smells arise—or as a yard or depôt for hay, straw, wood, or coal—shall, within three months after this Act comes into operation, register the same at the office of the Commissioners in a book to be kept by them for that purpose ; and whoever, after the expiration of the said three months and after eight days' notice from the Commissioners, uses any such place without the same being

registered, shall be liable to a penalty not exceeding fifty Rupees for every day during which the offence is continued.

CIII. No place shall be newly used within the prescribed limits for any of the purposes mentioned in the last preceding Section, except under a license from the Commissioners, who are hereby empowered at their discretion from time to time to grant such licenses; and whoever, without a license, uses any such place for such purpose, shall be liable to a penalty not exceeding five hundred Rupees, and a penalty not exceeding fifty Rupees for every day after the conviction for such offence during which the said offence is continued.

Penalty for establishing such trades without license.

CIV. The Commissioners may, in the manner herein-after provided, make bye-laws for the inspection of every place within the prescribed limits used for any of the purposes mentioned in Section CII, and for the management and conduct of such business, whether the same be newly established or not, in such manner as they may think necessary and proper, in order to prevent or diminish the noxious or injurious or offensive effect thereof.

Commissioners to make rules for licensing, registering, &c., such business places.

CV. The Commissioners may, if they think fit, cause a survey and measurement to be made of every burialground and every place used as such; and every such place and every burning ground existing at the time of the passing of this Act, shall, within three months after this Act shall come into operation, be registered by the owner or the person having the control thereof, or, if there be no owner or person authorized to control the same, by order of the Commissioners, in a book to be kept by them for that purpose; and whoever, after the expiration of the said time, knowingly buries, or burns, or causes, procures or suffers to be buried or burned, any corpse in any ground other than such registered burial or burning ground, shall be liable to a penalty not exceeding one hundred Rupees.

Burial and burning grounds to be registered.

CVI. No vault or grave shall be made within the walls of, or underneath any church or chapel or other place of public worship built after the passing of this Act, and no burial or burning ground, whether public or private, shall be

No vault or burial or burning place henceforth to be constructed without leave of Commissioners.

opened, made, or formed after the passing of this Act, otherwise than by or under the authority of the Local Government, without a license describing the extent and boundaries thereof first obtained from the Commissioners, who are hereby empowered at their discretion from time to time to grant such licenses; and whoever shall bury or burn, or cause, permit, or suffer to be buried or burned, any corpse in any vault, grave, or burial or burning ground opened, made, or formed without license or contrary to the terms thereof, shall be liable to a penalty not exceeding five hundred Rupees.

Commissioners
to issue certifi-
cates prohibiting
improper burning
or burial places.

CVII. If, upon the evidence of competent persons, the Commissioners, with the sanction of the Local Government, shall certify, in manner hereinafter provided, that any burial ground or place of burial, or any place used for the burning of corpses, is in such a state as to be dangerous to the health of persons living in the neighbourhood thereof, or that any church or other place of public worship is dangerous to the health of persons frequenting the same, by reason of the state of the vaults or graves within the walls of or underneath the same, or in any church-yard or burial-ground adjacent thereto, and shall also certify that a fitting place for interment or burning (as the case may be) exists within a convenient distance, and is available, it shall not be lawful, (after a time not less than two months to be named in such certificate,) to bury or burn, or permit or suffer to be buried or burned, any corpses in, upon, within, or under the ground, church, or place of worship to which the certificate relates, except in so far as may be allowed by such certificate; and, whoever, after due publication of such certificate as hereinafter provided, buries or burns, or causes, permits, or suffers to be buried or burned, any corpse contrary to this enactment, shall be liable to a penalty not exceeding two hundred Rupees. Provided always, that every such certificate shall be published in the *Government Gazette* (if any) and in one or more of the public newspapers, and that a translation thereof in the native languages chiefly in use in the Town

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or Station to which it relates, shall, in the case of a burial or burning ground, be affixed conspicuously on some part of the said ground.

CVIII. Notwithstanding any such certificate as in the preceding Section mentioned, where by usage or otherwise there is, at the time of the passing of this Act, any right of interment in or under any church or chapel, or in any vault of such church or chapel, or of any church-yard, burial-ground, or place of burial affected by such certificate, or where any exclusive right of interment, or any exclusive right to ground for the purpose of interment, has been purchased or acquired before the passing of this Act, it shall be lawful for the Commissioners, if, on application made to them, they are satisfied that the exercise of such right or the use of such ground will not be injurious to health, to grant a license for such exercise or use during such time and subject to such conditions and restrictions as they may think fit.

Commissioners may, in certain cases, permit interment in churches, &c.

CIX. The Commissioners may, from time to time, out of the funds available for the purposes of this Act, with the consent of the Local Government, provide fitting places to be used as burial or burning grounds.

Commissioners may provide places to be used as burial or burning grounds.

CX. The Commissioners may, in manner hereinafter provided, make bye-laws for the inspection and regulation of burial and burning grounds, and may thereby prescribe rules as to the depth of graves and places of interment, and generally as to all matters connected with the good order of burial and burning grounds, due regard being had to the religious usages of the several classes of the community.

Commissioners to make bye-laws for regulation of burial and burning grounds.

CXI. The Commissioners shall, upon such information as they may be able to obtain, cause to be registered the name, sex, age, religion, residence, and cause of death of every person whose body is brought to any of the said burial or burning grounds, and also, so far as is practicable, the like particulars of every other person who dies within the said Towns and Stations.

Registry of deaths.

Power to enter upon lands for the purposes of this Act.

CXII. The Commissioners shall, for the purposes of this Act, have power, by themselves or their officers, to enter at all reasonable hours in the day-time into and upon any building or land, as well for the purpose of making any survey or inspection, as for the purpose of executing any work authorized by this Act to be executed by them, without being liable to any legal proceedings or molestation whatsoever on account of such entry or of any thing done in any part of such building or land in pursuance of this Act. Provided that, except when herein otherwise provided, the Commissioners or their officers shall not enter upon any building or land which may be occupied at the time, unless with the consent of the occupier thereof, without previously giving the said occupier twenty-four hours' notice of his or their intention to do so.

Power to Commissioners to enter on adjacent lands to works.

CXIII. The Commissioners, or their officer or servants, may enter upon the land of any person adjoining to, or being within the distance of one hundred yards of any works by this Act authorized to be made, for the purpose of depositing upon such land, any soil, gravel, sand, lime, brick, stone, or other materials, or for any other purposes connected with the formation of the said works, without making any previous payment, tender, or deposit, doing as little damage as may be in the exercise of the several powers hereby granted to them, and making compensation for such temporary occupation or temporary damage of the said land to the owner and occupier thereof, from time to time, and as often as any such temporary occupation shall be taken or any such temporary damage done, and making compensation to the owner, also for the permanent injury (if any) to such land; and if any dispute shall arise touching the amount or apportionment of such compensation, the same shall be settled in the manner hereinafter provided for the settlement of disputes respecting damages and expenses. Provided that, before the Commissioners make any such temporary use as aforesaid of the land adjoining or lying near to the said works, they shall give fourteen days' notice of such their intention to the owners and occupiers

of such land, and shall set apart, by sufficient fences, so much of the land as shall be required to be used as aforesaid, from the other land adjoining thereto.

CXIV. Whoever at any time obstructs or molests the Commissioners, or any of their officers or workmen, or any person employed by them or with whom they may have contracted under the provisions of this Act, in the performance and execution of their or his duty or of any thing which they are respectively empowered or required to do by virtue or in consequence of this Act, or removes any mark set up for the purpose of indicating any level or direction necessary to the execution of works authorized by this Act, shall be liable to a penalty not exceeding fifty Rupees, or, in the discretion of the Magistrate before whom he is convicted, to imprisonment for any term not exceeding three months. .

Penalty for obstructing Commissioners in their duty.

CXV. For the purpose of constructing aqueducts for bringing water into any of the Towns of Calcutta, Madras, and Bombay from any place without the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature, or for the purpose of making sewers or drains to communicate with or empty themselves into any public sewer, lake, stream, canal, or water-course without the said limits, it shall be lawful, whenever a plan for any such aqueduct, sewers, or drain shall have been approved by the Local Government, for the Commissioners and their officers, with such assistants as they may require, to exercise, in the construction of such aqueduct, sewer, or drain throughout the line of country through which the said aqueduct, sewer, or drain is to run, all the powers which, by this Act, it is lawful for them to exercise within the said local limits, and which may be necessary for the construction of such aqueduct, sewer, or drain, without being subject to any action or molestation whatever for so doing ; and it shall also be lawful for any Magistrate of any district through which the said aqueduct, sewer, or drain is to run, to exercise in respect thereof the like powers and jurisdiction within the limits of his own district as it is, by this Act, lawful for a Magistrate or two Magistrates (as the case

Powers to be exercised by the Commissioners when constructing drains and aqueducts without the local limits of the jurisdiction of Supreme Courts.

may be) of any of the said Towns to exercise in respect of any work to be executed by the Commissioners within the said local limits.

Commissioners
empowered to
make bye-laws.

CXVI. The Commissioners may, from time to time, make such bye-laws as they think fit for the several purposes for which bye-laws are hereinbefore authorized to be made by them, and may from time to time repeal, alter, or amend any such bye-laws; provided such bye-laws be not repugnant to law or to the provisions of this Act; and for any breach of any of such bye-laws, the offender shall be liable to a fine not exceeding twenty Rupees, and, in case of a continuing offence, to a further penalty not exceeding ten Rupees for every day after notice of the offence from the Commissioners during which such offence is continued.

Bye-laws to be
confirmed.

CXVII. No bye-law, or alteration of a bye-law, shall have effect until the same is confirmed by the Local Government.

Notice of con-
firmation.

CXVIII. No bye-law, or alteration of a bye-law shall be confirmed until the same has been published in the *Government Gazette* (if any) or in one of the public newspapers for one month, during which period a copy of such proposed bye-law shall be kept at the office of the Commissioners, and all persons may, at reasonable times, inspect such copy without fee or reward.

Publication of
bye-laws.

CXIX. Such bye-laws, when confirmed, shall be published in the *Government Gazette* (if any) and in one or more of the public newspapers, and a copy thereof, in English and in the Vernacular languages chiefly in use, shall be painted or placed on boards, which shall be hung up in some conspicuous part of the office of the Commissioners.

Bye-laws to be
judicially no-
ticed.

CXX. All Courts and Magistrates shall take judicial notice of such bye-laws when the same shall have been confirmed and published as aforesaid.

CXXI. *Repealed by Act XVI, 1860.*

CXXII. The Commissioners shall publish short particulars of the several offences for which any penalty is imposed by this Act, or by any bye-law made under this Act, and of the amount of every such penalty, and shall cause such particulars, in English and in the Vernacular languages chiefly in use, to be painted or placed on boards, which shall be hung up in some conspicuous part of the office of the Commissioners.

Publication of penalties.

CXXIII. The Commissioners may enter into contracts with any persons for the execution of any works directed or authorized by this Act to be done by the Commissioners, or for any other things necessary for the purposes of this Act.

Power to Commissioners to make contracts.

CXXIV. The Commissioners may direct any prosecution for any public nuisance whatsoever, and may order proceedings to be taken for the recovery of any penalties and for the punishment of any persons offending against the provisions of this Act, and may order the expenses of such prosecution or other proceedings to be paid out of the funds applicable to the purposes of this Act.

Commissioners may direct prosecutions.

CXXV. Nothing in this Act shall be construed to render lawful any act or omission on the part of any person which is, or but for this Act would be deemed to be, a nuisance at common law, nor to exempt any person guilty of a nuisance at common law, from prosecution or action in respect thereof. Provided that, if any person, convicted of an offence under this Act, shall have paid the whole amount adjudged to be paid under such conviction, and the costs thereof, in every such case he shall be released from all further or other criminal proceedings for the same offence.

Act not to affect nuisances at common law.

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CXXVI. No writ or process shall be issued out against or served upon the Commissioners or any of their officers, or any person acting under the direction of the Commissioners, for any thing done or intended to be done under the powers of this Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Commissioners or at the place of abode of such

No writ or process to be issued against Commissioners or their officers, until after one month's notice of cause of action, &c., nor after 3 months from date of cause of action.

person, explicitly stating the cause of action, and the name and place of abode of the intended Plaintiff, and of his attorney or agent in the cause; and, upon the trial of any such action, the Plaintiff shall not be permitted to go into evidence of any cause of action except such as is stated in the notice so delivered, and unless such notice be proved, the Court shall find for the Defendant; and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards; and if any person to whom any such notice of action is given shall, before action brought, tender sufficient amends to the complainant, such complainant shall not recover in any such action when brought; and if no such tender shall have been made, it shall be lawful for the Defendant in such action, by leave of the Court where such action shall be pending, at any time before issue joined, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where Defendants are allowed to pay money into Court.

**Power to make
compensation
out of funds.**

CXXVII. The Commissioners may make compensation out of the funds applicable to the purposes of this Act, to all persons sustaining any damage by reason of the exercise of any of the powers vested in the Commissioners, their officers, or servants, under and by virtue of this Act.

**Mode of ascer-
taining compen-
sation for land,
&c.**

CXXVIII. When there is any hinderance to the acquisition by purchase of any land or building required for the purposes of this Act, the Local Government, upon the representation of the Commissioners and after such inquiry as may be thought proper, may declare that the land or building is needed for a public purpose, and may order proceedings for obtaining possession of the same for Government, and for determining the compensation to be paid to the parties interested, according to the laws now or hereafter to be in force for the acquisition of land for public purposes. And the Local Government may vest such land or building in the Commissioners on their paying the compensation awarded.

CXXIX. The Commissioners, with the consent of the Local Government, may sell any lands vested in them by virtue of this Act or acquired by them for the purpose thereof, either together or in parcels, as they may find most convenient and advantageous, and the proceeds of such sale shall be applied to the purposes of this Act: and for carrying such sale into effect the Commissioners may execute a conveyance of the lands sold to the purchaser, and such conveyance shall be under the common seal of the Commissioners.

Power to sell
lands.

CXXX. Whenever any street or road hereby vested in the Commissioners shall be discontinued and stopped up under the provisions of Section VI of this Act, the Commissioners, with the consent of the Local Government, may sell the land or such part thereof as shall not be required for the purposes of this Act.

Power to sell
old roads.

CXXXI. When any license is granted under the provisions of Section LXII, XCIII, or CIII of this Act authorizing the use of any place for any of the purposes therein described, and when permission is given under Section XIX for making any temporary erection, or under Section XXXVI for putting up any projection, the Commissioners may charge a fee for such license or permission; and the rates of the fees to be so charged shall be from time to time adjusted by the Commissioners with the sanction of the Local Government, provided that no such fee shall exceed the sum of fifty Rupees. When permission or license is given for the temporary occupation of any ground belonging to the Commissioners under the provisions of Section LXXXVII or Section LXXXIX, the Commissioners may charge rent for such ground, according to the time the occupation may continue, at such rates as may from time to time be sanctioned by the Local Government. All sums received by the Commissioners under this Section shall be applied by them to the purposes of this Act.

Fees for li-
censes.

CXXXII. In all cases where any damages, costs, or expenses are by this Act directed to be paid, the amount of the

Damages and
expenses how to
be determined.

same, in case of dispute, shall be ascertained and determined by two Magistrates, except in the Town of Bombay, and in the Town of Bombay by the Court of Petty Sessions ; provided that, if there be only one Magistrate acting for any Town or Station, such ascertainment and determination may be made by a Magistrate and a Justice of the Peace. *

Method of proceeding before Magistrates in question of damages, &c.

CXXXIII. In any case referred to the determination of two Magistrates under this Act, it shall be lawful for any Magistrate, upon the application of either party, to summon the other party to appear before any two Magistrates, or before a Magistrate and a Justice of the Peace as the case may be, and in the town of Bombay before the Court of Petty Sessions, at a time and place to be named in such summons ; and every such summons shall be served by delivering the original or a copy thereof to the person summoned, or by leaving the same at his usual place of abode with some adult male member or servant of his family. Upon the appearance of the parties, or, in the absence of any of them, upon proof of due service of the summons, it shall be lawful for such Magistrates, or such Magistrate and Justice, or such Court, to hear and determine such question, and for that purpose, to examine such parties or any of them and their witnesses on oath ; and the cost of every such enquiry shall be in the discretion of such Magistrates, or such Magistrate and Justice, or such Court, and they shall determine the amount thereof. Provided that, in the event of a difference of opinion between such Magistrates, or such Magistrate and Justice, the case shall be referred to the determination of a third Magistrate or (if there be no such Magistrate) of any Justice of the Peace to be selected by them.

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Recovery of damages by distress.

CXXXIV. If the amount of damages, costs, or expenses ascertained in the manner above described be not paid by the party liable to pay the same within seven days after demand, such amount may be recovered under a warrant from the said Magistrates or either of them, or the said Magistrate and Justice of the Peace or either of them, or from the Court of Petty Sessions, as the case may be, by distress and sale of

the goods and chattels of such party ; and the overplus arising from the sale thereof, after satisfying such amount and the costs of the distress and sale, shall be returned on demand to the party whose goods shall have been distrained.

CXXXV. Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of any expenses, charges, or damages awarded under the provisions of this Act, the Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction.

Commissioners may sue in competent Court instead or on failure of distress.

CXXXVI. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

Distress not unlawful for want of form.

CXXXVII. Every fine or penalty imposed under or by virtue of this Act, or any bye-law made in pursuance thereof, may be recovered by summary proceeding before a Magistrate, upon information exhibited by order of the Commissioners.

Recovery of fines and penalties.

CXXXVIII. The Magistrate by whom any fine or penalty is imposed by virtue of this Act may award not more than one-half thereof or any less sum to the informer, and shall order the remainder,—or, if he make no award to the informer, the whole of such fine or penalty to be paid to the Commissioners, to be by them applied to the purposes of this Act.

Application of fines and penalties.

CXXXIX. No person shall be liable to any fine or penalty under this Act, for any offence made cognizable before a Magistrate, unless the complaint respecting such offence shall have been made before a Magistrate within three months next after the commission of such offence.

Complaint to be made within three months after offence committed.

Damage to be made good in addition to penalty.

CXL. • If through any act, neglect, or default, on account whereof any person shall have incurred any penalty imposed by this Act, any damage to the property of the Commissioners shall have been committed by such person, he shall be liable to make good such damage, as well as to pay such penalty ; and the amount of such damage shall, in case of dispute, be determined by the Magistrate by whom the party incurring such penalty shall have been convicted ; and, on non-payment of such damage on demand, the same shall be levied by distress, and such Magistrate shall issue his warrant accordingly.

Police officers to report offences to Commissioners, and to arrest unknown offenders.

CXLI. It shall be the duty of all Police Officers to give immediate information to the Commissioners of any offence committed contrary to the provisions of this Act. Any Police Officers may arrest any person committing in his view any offence against this Act if the name and address of such person be unknown to him, and such person may be detained at the Station House until his name and address shall be ascertained.

Commencement of Act.

CXLII. This Act shall commence and take effect from and after the 1st of November 1856.

SCHEDULE.

LAWS REPEALED.

Calcutta.

Act No. XII. of 1837.

Act No. XII. of 1847, entitled “ An Act to enable the Commissioners who may be appointed under Act XVI. of 1847 to purchase and hold real or personal property for the improvement of the Town of Calcutta.”

Act No. XII. of 1852, entitled “ An Act to repeal Act No. II. of 1848, and to confer certain powers on the Commissioners for the improvement of the Town of Calcutta,” except Section 50 of the said Act.

Madras.

A Rule, Ordinance, and Regulation, entitled "A Regulation for the cleanliness of the Town of Madras."

Bombay.

So much of Rule, Ordinance, and Regulation III. 1812, entitled "A Rule, Ordinance, and Regulation to restrain the construction of all buildings within the Town walls likely to endanger the defence of the Garrison, to remove and prevent encroachments that may exist or be attempted to be made in the streets, and high-roads, both within and without Town walls, and generally throughout the Island of Bombay, and to prevent the introduction of articles of a combustible nature within the Garrison," as is now in force.

So much of Rule, Ordinance, and Regulation III. 1815, entitled "A Rule, Ordinance, and Regulation for enlarging, explaining, and amending Rule, Ordinance, and Regulation I, and Rule, Ordinance, and Regulation III. of 1812, the former passed by the Honorable the Governor in Council on the 25th March 1812, and registered in the Court of the Honorable the Recorder on the 20th of May following, and the latter passed by the Honorable the Governor in Council on the 4th of November 1812, and registered in the same Court on the 26th day of December next ensuing, and for other beneficial purposes," as is now in force.

Sections 2, 3, 4, 5, 6, 8, 9, 10, 11, 12, 13, 14, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, and 34, of Act No. XXVIII of 1839, entitled "An Act for the regulation of buildings in the Islands of Bombay and Colaba."

Act No. XIV. of 1841, entitled "An Act for the better regulation of Markets in the Islands of Bombay and Colaba."

Act No. XIV. of 1842, entitled "An Act for giving greater facility in the abatement and prosecution of nuisances in and through the Towns and Islands of Bombay and Colaba."

ACT No. XV. OF 1856.

1. *Marriage of Hindoo widows legalized.*
2. *Rights of widow in deceased husband's property to cease on her re-marriage.*
3. *Guardianship of children of deceased husband on the re-marriage of his widow.*
4. *Nothing in this Act to render any childless widow capable of inheriting.*
5. *Saving of rights of widow marrying, except as provided in the three preceding Sections.*
6. *Whatever ceremonies now constitute a valid marriage shall have the same effect on the marriage of a widow.*
7. *Consent to re-marriage of a widow who is a minor. Punishment for abetting marriage made contrary to this Section. Effect of such marriage. Proviso.*

An Act to remove all legal obstacles to the marriage of Hindoo Widows.

WHEREAS it is known that, by the law as administered in the Civil Courts established in the territories in the possession and under the government of the East India Company, Hindoo widows, with certain exceptions, are held to be, by reason of their having been once married, incapable of contracting a second valid marriage, and the offspring of such widows by any second marriage are held to be illegitimate and incapable of inheriting property: and whereas many Hindoos believe that this imputed legal incapacity, although it is in accordance with established custom, is not in accordance with a true interpretation of the precepts of their religion, and desire that the Civil law administered by the Courts of justice shall no longer prevent those Hindoos who may be so minded from adopting a different custom, in accordance with the dictates of their own consciences: and whereas it is just to relieve all such Hindoos from this legal incapacity of which they complain; and the removal of all legal obstacles to the marriage of Hindoo widows will tend to the promotion of good morals and to the public welfare: It is enacted as follows:—

**Marriage of
Hindoo widows
legalized.**

I. No marriage contracted between Hindoos shall be invalid, and the issue of no such marriage shall be illegiti-

mate, by reason of the woman having been previously married or betrothed to another person who was dead at the time of such marriage, any custom and any interpretation of Hindoo law to the contrary notwithstanding.

II. All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors, or by virtue of any will or testamentary disposition, conferring upon her, without express permission to re-marry, only a limited interest in such property, with no power of alienating the same, shall, upon her re-marriage, cease and determine as if she had then died; and the next heirs of her deceased husband, or other persons entitled to the property on her death, shall thereupon succeed to the same.

Rights of widow in deceased husband's property to cease on her re-marriage.

III. On the re-marriage of a Hindoo widow, if neither the widow nor any other person has been expressly constituted by the will or testamentary disposition of the deceased husband, the guardian of his children, the father or paternal grandfather, or the mother or paternal grandmother, of the deceased husband, or any male relative of the deceased husband, may petition the highest Court having original jurisdiction in Civil cases in the place where the deceased husband was domiciled at the time of his death, for the appointment of some proper person to be guardian of the said children, and thereupon it shall be lawful for the said Court, if it shall think fit, to appoint such guardian, who, when appointed, shall be entitled to have the care and custody of the said children, or of any of them, during the minority, in the place of their mother; and in making such appointment the Court shall be guided, so far as may be, by the laws and rules in force touching the guardianship of children who have neither father nor mother. Provided that, when the said children have not property of their own sufficient for their support and proper education whilst minors, no such appointment shall be made otherwise than with the consent of the mother, unless the proposed guardian shall have given

Guardianship of children of deceased husband on the re-marriage of his widow.

security for the support and proper education of the children whilst minors.

Act not to render any childless widow capable of inheriting.

IV. Nothing in this Act contained shall be construed to render any widow, who, at the time of the death of any person leaving any property, is a childless widow, capable of inheriting the whole or any share of such property, if, before the passing of this Act, she would have been incapable of inheriting the same by reason of her being a childless widow.

Saving of rights of widow marrying except as before provided.

V. Except as in the three preceding Sections is provided, a widow shall not, by reason of her re-marriage, forfeit any property, or any right to which she would otherwise be entitled; and every widow who has re-married shall have the same rights of inheritance as she would have had, had such marriage been her first marriage.

Whatever ceremonies now constitute a valid marriage shall have the same effect on the marriage of a widow.

VI. Whatever words spoken, ceremonies performed, or engagements made, on the marriage of a Hindoo female who has not been previously married, are sufficient to constitute a valid marriage, shall have the same effect, if spoken, performed, or made on the marriage of a Hindoo widow; and no marriage shall be declared invalid on the ground that such words, ceremonies, or engagements are inapplicable to the case of a widow.

Consent to re-marriage of a widow who is a minor. Punishment for abetting marriage made contrary to this Section. Effect of such marriage.

VII. If the widow re-marrying is a minor whose marriage has not been consummated, she shall not re-marry without the consent of her father, or if she has no father, of her paternal grandfather, or if she has no such grandfather, of her mother, or failing all these, of her elder brother, or failing also brothers, of her next male relative. All persons knowingly abetting a marriage made contrary to the provisions of this Section shall be liable to imprisonment for any term not exceeding one year, or to fine, or to both. And all marriages made contrary to the provisions of this Section may be declared void by a Court of law. Provided that, in any question regarding the validity of a marriage made contrary to the provisions of this Section, such consent

Proviso.

as is aforesaid shall be presumed until the contrary is proved, and that no such marriage shall be declared void after it has been consummated. In the case of a widow who is of full age, or whose marriage has been consummated, her own consent shall be sufficient consent to constitute her re-marriage lawful and valid.

ACT No. XVI OF 1856.

Extended by Act XXIV, 1857, but since expired.

ACT No. XVII OF 1856.

Repealed by Act XVII, 1862.

ACT No. XVIII OF 1856.

CALCUTTA.

1. *Regulations modified.*
2. *Collection of Stamp Duty in Calcutta to be ordinarily in charge of the Collector.*
3. *Collector may entrust any part of his duties to his Deputy.*

An Act relating to the administration of the Public Revenues in the Town of Calcutta.

WHEREAS it is expedient that the Collector of Calcutta should have charge of the collection of the Stamp Duty within the town of Calcutta, and that he should have power to employ any Deputy Collector subordinate to him, in the performance of any part of the duties of his office: It is enacted as follows :—

I. Such part of Section VI, Regulation XII, 1826 of the Bengal Code, and such part of Section VI of a Rule, Ordinance and Regulation for the Town of Calcutta, made and passed on the 14th day of June 1827, as prescribe that an officer, being a Civil Servant of the Honorable Company, shall be specially appointed by the Governor General in Council to take charge of the collection of the Stamp Duty within the City of Calcutta, are declared subject to the following modification.

II. The collection of the Stamp Duty within the Town of Calcutta shall ordinarily, and unless the Lieutenant-Governor of Bengal shall otherwise direct, be in the charge of the Collector of Calcutta.

III. It shall be lawful for the Collector of Calcutta to employ any Deputy Collector subordinate to him, in the performance of any part of the duties of his office under the said Regulation, or under Act XI of 1849, or Act XXIII of 1850; and all Rules, Regulations, and Acts relating to the office of Deputy Collector, shall be of the same force within the Town of Calcutta as in other parts of the territories subject to the Presidency of Fort William in Bengal.

GENERAL.

ACT No. XIX OF 1856.*

* Extended to Emigration to any or all of the French Colonies by Act XLVI, 1880, Section 31.

1. *Governor General in Council empowered in certain cases to prohibit by notification the emigration of Native laborers to any Colony to which emigration is allowed by law.*

2. *Operation of any Act, permitting emigration, to be suspended from the day specified in the notification.*

3. *During such suspension, all the laws against emigration shall be in force as to the Colony specified in the notification.*

4. *Revocation of suspension.*

An Act to enable the Governor General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native Laborers.

WHEREAS by several Acts passed by the Governor General of India in Council, the emigration of Native Inhabitants of India to certain British Colonies is authorized, subject to certain regulations for the protection of such Emigrants; and whereas it is expedient that the Governor General of India in Council should have power, from time to time, to suspend any of the said Acts so far as they relate to emigration to any Colony or place in which the said Governor General in Council shall have reason to believe that proper measures have not been taken for the protection of the Emigrants immediately upon their arrival thereat or during their residence therein, or for their safe return at or near to the time at which the Government of such Colony or place was bound to find them a return passage to India: It is enacted as follows:—

Governor General in Council empowered

1. Whenever the Governor General of India in Council shall have reason to believe that, in any colony or place

to which the emigration of Natives of India is allowed, proper measures have not been taken for the protection of such Emigrants immediately upon their arrival in such Colony or place or during their residence therein, or for their safe return to India, or to provide a return passage to India for any such Emigrants at or about the time at which they are entitled to such return passage, it shall be lawful for the said Governor General in Council, by notification in the *Calcutta Gazette*, to declare that the emigration of Natives of India to such Colony or place shall cease and be prohibited from a certain day to be specified in the notification.

certain cases to prohibit by notification the emigration of Native laborers to any Colony to which emigration is allowed by law.

II. After the notification shall have been so published, the operation of any Act, by which the emigration of Natives of India to such Colony or place is allowed, shall be suspended from the day specified in the notification, so far as such Act authorizes emigration of Natives of India to such Colony or place; but such suspension shall not affect any act done, offence committed, or proceedings commenced before such suspension.

Operation of any Act, permitting emigration, to be suspended from the day specified

III. During the time of such suspension, any Act in force for the time being which prohibits the emigration of Natives of India, or the aiding or abetting of such emigration, or the making of any contract for labor to be performed by any Native of India out of the territories of the East India Company, shall take effect and be in force, so far as relates to the Colony or place specified in the notification, in the same manner and to the same extent as if the Act suspended had never been passed.

During such suspension, all the laws against emigration shall be in force as to the Colony specified.

IV. Whenever the Governor General of India in Council shall be satisfied that, in the Colony or place specified in the notification, proper measures have been taken and will be adopted for the protection of Emigrants immediately upon their arrival thereat and during their residence therein, and for their safe return to India, and for providing return passages to India for such Emigrants at or near to the time at which they are entitled to such return passages, it shall be lawful for the said Governor General in Council

Revocation of suspension.

to notify in the *Calcutta Gazette* that the emigration of Natives of India to such Colony shall be allowed from a day to be specified in such notification ; and thereupon any Act which may have been suspended by virtue of this Act shall, from the day so specified, be revived and have the same force and effect as if it had not been suspended, except as to acts done, offences committed, and proceedings commenced during the time of such suspension.

BENGAL. .

ACT No. XX. OF 1856.

1. *Laws repealed. Existing assessment to continue to be levied until revised according to this Act.*
2. *To what places the Act shall apply. Proviso.*
3. *Unions may be formed.*
4. *Government may define limits of cities, towns, &c.*
5. *Houses let to lodgers how to be assessed.*
6. *Penalty for removing, &c., name of street or number of house.*
7. *Magistrate to determine number of Chowkeydars. Proviso.*
8. *Grades and wages of Chowkeydars.*
9. *Magistrate to determine the sum to be raised annually.*
10. *Nature of the tax to be levied.*
11. *Limitation of tax.*
12. *Rate how to be ascertained.*
13. *Magistrate may exempt occupiers unable to pay the assessment or rate.*
14. *Constitution of Panchayets. Magistrate may appoint a person not residing in the place to be a member of Panchayet.*
15. *Duties of Panchayets. Form of Magistrate's requisition.*
16. *Panchayet may revise existing assessment or rate.*
17. *Magistrate may amend and settle assessment or rate as revised by the Panchayet.*
18. *Assessment or rate to be published.*
19. *Assessment or rate to stand good for one year. Change of occupation before a new assessment or rate. Revised assessment or rate to be deemed a new one. Proviso.*
20. *Appeal from assessment or rate. Limitation of appeal.*
21. *Commissioner of Circuit may direct revision of assessment or rate.*
22. *Magistrate may direct revision at any time of the year, for reasons to be stated.*

23. *Publication of assessment or rate as revised under the two last Sections.*

24. *Penalty for refusal to serve on Panchayet.*

25. *If Panchayet refuse or omit to act, Magistrate may assume their functions. Proviso.*

26. *Residents only bound to act on a Panchayet.*

27. *Duration of Panchayet and limitation of service thereon. .*

28. *Member of Panchayet removable only on application of rate-payers.*

29. *Vacancies in Panchayet how to be supplied.*

30. *Panchayet to report misconduct of Chowkeydars,—or death or absence.*

31. *Appointment and duty of Sudder Panchayet.*

32. *Appointment and registry of Chowkeydars.*

33. *Appointment of Jemadars and Inspectors.*

34. *Appointment of Tax Collectors and other establishment.*

35. *Contingent expenses.*

36. *Surplus funds may be devoted to Conservancy purposes.*

37. *To prepare assessment lists.*

38. *To collect assessment.*

39. *To remit collections to the Magistrate.*

40. *To prepare summons, &c.*

41. *To report defaulters to Magistrate.*

42. *Summons of defaulters.*

43. *Assessment to be levied from defaulters by distress and sale.*

44. *Sale how to be conducted. Proceeds how to be applied. Returns of sale. Costs.*

45. *Penalty for Tax-Darogah purchasing at such sales.*

46. *Sale of property beyond limits of town, &c.*

47. *All goods found on premises liable to sale. But owner of goods to be indemnified by the defaulter.*

48. *Penalty for obstructing Tax-Darogah in execution of duty.*

49. *Magistrates to try complaints against Tax-Darogah of extortion, &c. Penalty for extortion, &c. Proviso.*

50. *Powers, duties, and liabilities of Chowkeydars, Jemadars, and Inspectors.*

51. *Chowkeydars to wear badges.*

52. *Duties of Chowkeydars.*

53. *All persons required to assist Chowkeydars in making arrests.*

54. *Chowkeydars, &c., how to be paid.*

55. *Punishment of Chowkeydars for neglect of duty, &c.*

56. *Suspension or dismissal of Police Officers.*

Fines how to be disposed of.

58. *Jurisdiction.*

59. *Proceedings of Magistrate and Commissioner of Circuit respectively subject to control of Local Government.*

60. *Act not to apply to Town of Calcutta.*

61. *Interpretation of Act.*

An Act to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs, and Bazaars in the Presidency of Fort William in Bengal.

WHEREAS it is expedient to make better provision for the appointment and maintenance of Police Chowkeydars in Cities, Towns, Stations, Suburbs, and Bazaars in the Presidency of Fort William in Bengal : It is enacted as follows :—

Laws repealed.
Existing assessment to continue to be levied until revised according to this Act.

I. Regulation XXII. 1816, Regulation VII. 1817, Section VI. Regulation III. 1821, and Section IV. Regulation II. 1832, of the Bengal Code, and Act XV. of 1837, are hereby repealed, except as to any act which shall have been done, or any liability which shall have been incurred, before the passing of this Act. Provided that the monthly assessment levied, under Regulation XXII. 1816, and Act XV. of 1837, in any city or station at the time of the passing of this Act, shall continue to be levied until the same shall be revised and altered under the provisions of this Act.

To what places the Act shall apply.

II. The provisions of this Act shall have effect in the cities and stations in which the said Regulation XXII. 1816 has heretofore been in force, and in every other City, Station, Town, Suburb, and Bazaar in the said Presidency, to which the Local Government at any time may extend the same by notification in the Official Gazette. Provided always, that this Act shall not be extended to any city, town, suburb, or bazaar, unless there be therein (or in some other city, town, suburb, or bazaar with which the same may be united as hereinafter provided) a Police Station under an officer of a grade not below that of Jemadar, nor to any agricultural village.

Proviso.

Unions may be formed.

III. The Government may, by notification to be published in the Official Gazette, unite, for the purposes of this

Act, any city, town, suburb, station, or bazaar, or any part or parts of a city, town, suburb, station or bazaar, or part or parts of a city, town, suburb, station, or bazaar; and in such case all the provisions of this Act applicable to a city, town, suburb, station, or bazaar shall apply to such union.

IV. For the purposes of this Act the Local Government may define and declare the limits of any city, town, suburb, station, bazaar, or union, and all occupiers of houses within any such city, town, suburb, station, bazaar, or union as aforesaid, or within such limits as shall be so defined as aforesaid, shall be liable to be assessed or rated according to the provisions of this Act, for the purpose of maintaining the Chowkeydars appointed to be maintained in such city, town, station, suburb, bazaar, or union.

Government
may define limits
of cities, towns,
&c.

V. If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall, for the purposes of this Act, be deemed to be the occupier of such house.

Houses let to
lodgers how to be
assessed.

VI. The Magistrate may cause a name to be given to any street and affixed in place or places as he may think fit, and may also cause a number to be affixed to every house in any street or mohulla, for the purpose of identifying such house; and if any person shall wilfully remove, obliterate, or destroy such name or number, he shall be liable, on conviction by Magistrate, to a fine not exceeding twenty Rupees.

Penalty for re-
moving, &c.,
name of street or
number of house.

VII. The Magistrate shall determine the number of Chowkeydars to be maintained in any city, town, or other such place as aforesaid; but the number of Chowkeydars so to be maintained shall not exceed one to every twenty-five houses.

Magistrate to
determine num-
ber of Chowkey-
dars. Provide.

VIII. The Chowkeydars appointed under this Act may be of different grades, and the wages to be paid to the several grades shall be determined by the Magistrate.

Grades and
wages of Chow-
keydars.

Magistrate to determine the sum to be raised annually.

IX. Magistrate shall determine the total amount required to be raised in any year in any city, town, or other such place as aforesaid, for the purpose of maintaining the Chowkeydars, appointed to be maintained therein, and for the purposes specified in Sections XXXIII, XXXIV, XXXV, and XXXVI, of this Act, together with such sum as the Magistrate may consider necessary to provide against the contingency of losses from defaulters in the current year, and the amount of losses, if any, actually sustained from defaulters in the preceding year.

Nature of the tax to be levied.

X. The tax to be levied in any city, town, or other place as aforesaid, for the purposes of this Act, may be either an assessment according to the circumstances and the property to be protected of the persons liable to the same, or a rate on houses and grounds according to the annual value thereof. The Local Government, on the report of the Magistrate and Commissioner of Circuit, shall determine in each case whether the tax to be levied shall be such assessment or such rate.

Limitation of tax.

XI. If the tax be an assessment according to the circumstances and the property to be protected of the persons liable to the same, the aggregate sum to be raised by such tax shall not exceed the average rate of two annas per mensem for each house, and the amount assessed in respect to any one house shall not be more than the pay of a Chowkeydar of the lowest grade. If the tax be a rate on houses and grounds, it shall not exceed five per centum of the annual value thereof.

Rate how to be ascertained.

XII. For the purpose of making a rate under this Act, the annual value of the houses and grounds liable to the rate shall be computed and ascertained upon an estimate of the gross annual rent at which the same might reasonably be expected to let from year to year. Grounds used for purposes of trade shall be liable to the rate, but grounds used for the purpose of cultivation or for depasturing cattle shall not be liable.

XIII. The Magistrate may, at his discretion, exempt from the assessment or rate, or may relieve from the payment of his assessment or rate, any occupier who may be unable from property to pay the same.

Magistrate may exempt occupiers unable to pay.

XIV. For the purposes hereinafter mentioned, the Magistrate shall constitute and appoint a Panchayet for each such city, town, or other place as aforesaid, or, when he may see fit to divide any such city, town, or place into convenient divisions, for each division thereof, and shall issue a sunnud of appointment, specifying the names, residence, business, or other description of the persons appointed and the period for which the appointment is made. Every Panchayet shall consist of three or five respectable persons residing or carrying on business in or near to any such city, town, or other place, or in or near to any such division thereof. Provided that instead of any one such person, the Magistrate may appoint any person who may be fit to be a member of the Panchayet, notwithstanding such person may not reside or carry on business in or near to such city, town, or other place, or in or near to any such division thereof.

Constitution of Panchayets. Magistrate may appoint a person not residing in the place to be a member of Panchayet.

XV. The Panchayet so appointed, or the majority of them, shall, once in every year, if required so to do by the Magistrate, prepare and make, in accordance with the rules laid down in the requisition, an assessment or rate upon the several persons liable to be assessed or rated in respect of their occupation of property within the district (whether city, town, or other place as aforesaid, or any division thereof) for which the Panchayet shall be appointed, and shall enter the same in a list which shall specify the names of the several occupiers of property within the district liable to be assessed or rated under the provisions of this Act, the trade, business, or other description of such occupier, the property occupied, and the amount payable monthly by such occupier. If the tax be a trade on the annual value of the property occupied, such annual value and the total amount of the annual rate shall also be specified. The requisition of the Magistrate to the Panchayet to make out such list shall be

Duties of Panchayets. Form of Magistrate's requisition.

in the form marked A. or B., as the case may be, set forth in the Appendix to this Act annexed, or to the like effect. ●

Punchayet may
revise existing
assessment or
rate.

XVI. The Punchayet shall, if required by the Magistrate so to do, instead of making a new assessment or rate, revise and amend the assessment or rate then in force.

Magistrate may
amend revised
assessment.

XVII. When an assessment or rate shall have been made or revised, as the case may be, the Punchayet shall forward to the Magistrate the list containing the same; and the Magistrate shall revise, and, if necessary, amend and settle it.

Assessment or
rate to be pub-
lished.

XVIII. When the assessment or rate shall have been settled, the Magistrate shall sign the list, and shall cause one copy thereof, together with a Notification prepared according to the form marked C. in the Appendix to this Act, or to the like effect, and written in the language of the Province in which the city, town, or place is situate, to be stuck up in some conspicuous place in the district for which the assessment or rate has been made; and another copy, together with a like Notification, at the nearest Police thanna; and shall also cause a third copy to be deposited in his own office.

Assessment or
rate to stand
good for one year.
Change of occu-
pation before a
new assessment
&c. Revised as-
sessment, &c. to
be deemed a new
one.

XIX. Unless revised or corrected as hereinafter provided, every assessment or rate under this Act shall stand good for one whole year, and until a new one is made, and in case the occupier of any property included in any assessment or rate shall be changed before a new one is made, the new occupier shall be liable in respect of such property for any portion of the assessment or rate which shall have become payable during his occupation instead of the former occupier thereof; and, after Notification to such person, the Magistrate may cause his name to be substituted in the said list for the name of the former occupier. Every assessment or rate which shall be revised according to the provisions of Section XVI. shall be deemed a new assessment or rate. Provided always, that, if no new assessment or rate is made within the first three months of any year, the list of the previous year shall be re-published according to the provisions of Section

Proviso.

XVIII, and shall thereupon be deemed to be the assessment or rate for the current year, and shall be open to appeal under the next succeeding Section.

. XX. Any person assessed or rated, who shall be dissatisfied with his assessment or rate, or who shall dispute his occupation of any property, or his liability to be assessed or rated, may appeal on unstamped paper to the Magistrate, and the Magistrate, after making such inquiries as he deems necessary, by examination of the appellant on oath or solemn affirmation, or otherwise, may confirm the assessment or rate, or amend the same. In case the Magistrate confirms the assessment or rate he may award costs against the appellant. The decision of the Magistrate in such cases shall be final, and no objection shall be taken to any assessment or rate, nor shall the liability of any person to be assessed or rate be questioned in any other manner or by any other Court. Provided that no appeal shall be received after the expiration of one month from the time of the Notification of the assessment or rate prescribed by Section XVIII. or of the Notification of the substitution of the name of an occupier under Section XIX. unless the Magistrate, upon reasonable cause shown, shall extend the time for receiving such appeal.

Appeal from assessment or rate. Limitation of appeal.

. XXI. The Commissioner of Circuit, with the consent of the Local Government, may at any time direct the Magistrate to revise the assessment or rate of any city, town, or other place as aforesaid, specifying the reasons which, in his opinion, render such revision necessary, and the Magistrate shall, according to such direction, revise and, if necessary, amend the same.

Commissioner of Circuit may direct revision.

XXII The Magistrate may require the Panchayet to revise the assessment or rate at any period during the year; but on every such occasion he shall address a written order to the Panchayet, specifying the reasons which render such revision necessary, and requiring an amended return within a stated period.

Magistrate may direct revision at any time of the year, for reasons to be stated.

XXIII. Whenever any assessment or rate is revised during the year as provided in the two last preceding Sec-

Publication of assessment or rate as revised.

under the two last Sections.

tions, a revised list, together with a Notification as prescribed in Section XVIII. shall be prepared and published in the manner therein directed. And all objections to such revised assessment or rate shall be made and dealt with in the manner prescribed in Section XX.

Penalty for refusal to serve on Panchayet.

XXIV. If any person appointed a member of a Panchayet refuse to undertake the office, or omit to perform the duties thereof, and do not, within fifteen days from the date of his appointment, show satisfactory grounds for his refusal or omission, or provide such a substitute as the Magistrate approves, the Magistrate may fine such person in a sum not exceeding fifty Rupees.

If Panchayet refuse or omit to act, Magistrate may assume their functions.

XXV. If the persons appointed a Panchayet, or a majority of them, refuse, or omit, for a period of fifteen days after the receipt of an order from the Magistrate, to perform the duties required of them, the Magistrate may himself make or revise the assessment or rate, and may enforce the same, as if it had been made or revised in the first instance by the Panchayet. Provided that the functions of the Panchayet shall not thereby absolutely cease and determine, but may be resumed at any time, only not so as to invalidate any act done by the Magistrate under this Section.

Proviso.

Residents only bound to act on a Panchayet.

XXVI. No person shall be bound to act on a Panchayet unless he shall reside or carry on business within the limits of the district for which the Panchayet is to be appointed.

Duration of Panchayet and limitation of service thereon.

XXVII. Every Panchayet shall be appointed for the period of one year, and no person shall be compelled to serve on a Panchayet for more than one year at a time, or within less than three years after the expiry of previous service; but nothing in this Section shall prevent any person from being appointed to serve on a Panchayet at any time whatsoever with his own consent.

Member of Panchayet removable only on application of rate-payers.

XXVIII. If a majority of the persons assessed or rated in any district for which a Panchayet shall be appointed, not being in arrear, make application in writing to the Magistrate for the removal of any member of the Panchayet appointed

for such district, the Magistrate, if he think it expedient, may remove such member from the Panchayet.

XXIX. If any vacancy shall occur among the members of a Panchayet, or if any member appointed shall refuse to decline or be unable to act, the Magistrate may nominate and appoint another person to supply the vacancy or to act in the stead of such member, subject to the rules already laid down as to the original appointment of members ; but such appointment may be made by a written communication to the person appointed, and it shall not be necessary to issue a new sunnud under Section XIV. of this Act.

Vacancies in Panchayet how to be supplied.

XXX. The Panchayet shall give notice to the Magistrate of any neglect or misconduct on the part of any Chowkeydar within the district for which they are appointed, which shall come to their knowledge ; and shall also give notice of any vacancy which shall occur in consequence of the death or absence of any Chowkeydar or from any other cause.

Panchayet to report misconduct of Chowkeydars - or death or absence.

XXXI. In cities and large towns containing three or more divisions or districts, the Magistrate may appoint a Sudder Panchayet consisting of not less than five members, who may be selected either from the members of the local Panchayets or from any other residents of the city or town. It shall be the duty of the Sudder Panchayet to assist the Magistrate, when required so to do, in carrying out generally the objects of this Act, and particularly in revising the assessment or rate made by the District Panchayets and enquiring into and reporting on appeals preferred against the same.

Appointment and duty of Sudder Panchayet.

XXXII. The Chowkeydars to be employed under this Act shall be appointed by the Magistrate, and the Magistrate shall cause to be kept a Register in which shall be entered the name, age, place of residence, and previous occupation of every person so appointed, with the date of his appointment.

Appointment and registry of Chowkeydars.

XXXIII. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint such number of Jemadars and Inspectors as may be necessary for the super-

Appointment of Jemadars and Inspectors.

vision and control of the Chowkeydars. Provided that the number of these officers shall not be greater than one Jemadar to fifteen Chowkeydars, and one Inspector to sixty Chowkeydars.

**Appointment
of Tax Collector
and other estab-
lishment.**

XXXIV. Subject to the approval of the Commissioner of Circuit, the Magistrate may appoint one or more Tax Collectors or Darogahs, and such other servants as may be necessary for preparing, or assisting the Panchayet in preparing the assessment or rate, for copying the same, for collecting the tax, keeping the accounts and records, and otherwise carrying out the purposes of this Act. The Magistrate shall take from every Tax Collector or Darogah such security for the due disposal of the sums collected by him as may be thought necessary.

**Contingent ex-
penses.**

XXXV. The Magistrate may further incur any reasonable expense in the purchase of stationery, in providing badges, dresses, and weapons for the Chowkeydars and for any other contingencies that may seem to him necessary.

**Surplus funds
may be devoted
to Conservancy
purposes.**

XXXVI. After paying the wages of the Chowkeydars, and defraying the charges specified in the three last preceding Sections of this Act, the Magistrate may, with the sanction of the Commissioner of Circuit, appropriate any sum which may be available, to the purpose of cleansing the city, town, or place, or of lighting or otherwise improving the same.

**Tax Darogah to
prepare assess-
ment lists.**

XXXVII. The Tax-Darogah shall prepare, from the lists hercinbefore mentioned, a Register, which shall be attested by the Magistrate or his Deputy or Assistant, and shall contain the names of all persons assessed or rated so far as they can be ascertained, the property in respect of which the assessment or rate in each case is imposed, and the amount payable monthly by each person.

**To collect as-
sessment.**

XXXVIII. On the tenth of each calendar month, or so soon after as possible, the Tax-Darogah shall proceed in person or through some one of his office establishment, to collect the amount due for the current month from each

person subject to the tax; and for all sums so collected, the Darogah shall grant a receipt. Provided that, with the sanction of the Commissioner of Circuit previously obtained, the collection may be made quarterly instead of monthly; and in such case, the amount due for each quarter shall be collected in the last month of that quarter.

XXXIX. The Tax-Darogah shall remit to the Magistrate, in such manner as the Magistrate shall direct, all sums of money collected either by himself or by any one of his establishment, and the Magistrate, or some officer of his establishment authorized on that behalf, shall give the Darogah a receipt for every sum of money so remitted. The Magistrate shall also cause all such sums of money to be credited to a separate Fund, to be called the Chowkeydaree Fund of the city, town, or place in or on account of which they are collected.

To remit collections to the Magistrate.

XL. The Tax-Darogah shall prepare all summonses and processes to be issued against defaulters, and shall make the usual returns thereto, and shall keep a regular account of all distresses levied and sales made by him for the realization of arrears.

To prepare summons, &c.

XLI. On the 20th of each calendar month, or as soon after as possible, the Tax-Darogah shall deliver or transmit to the Magistrate, in one list, a statement of all defaulters, the property in respect to which they are assessed or rated, the amount of the monthly assessment or rate, and the amount due from each.

To report defaulters to Magistrate.

XLII. On receipt of the aforesaid list, the Magistrate shall issue a summons against each of the defaulters therein mentioned, requiring him either to pay the demand or to attend at the Cutcherry of the Magistrate within a reasonable time to be specified in the summons, to show cause for his refusal.

Summons of defaulters.

XLIII. If any defaulter fail to appear in answer to the summons, or having appeared, fail to satisfy the Magistrate

Assessment to be levied from defaulters by distress and sale.

that no arrear is due from him, the Magistrate may issue a warrant to the Tax-Darogah, authorizing him to levy the whole or any part of the demand by distress and sale of any goods and chattels belonging to the defaulter, or being at any time upon the premises in respect of which the arrear is due ; and the Magistrate's order as contained in the warrant shall be final.

Sale how to be conducted. Proceeds how to be applied. Returns of sale. Costs.

XLIV. The Tax-Darogah shall make an inventory of all goods and chattels seized under the Magistrate's warrant, and shall give previous notice of the sale, and the time and place thereof, by beat of drum, in the district in which the property is situated. If the arrear be not paid with costs, or the warrant be not in the meantime discharged or suspended by the Magistrate, the goods and chattels seized shall be sold at the time and place specified, in the most public manner possible ; and the proceeds shall be applied in discharge of the arrears and costs, and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure. The Tax-Darogah shall make a return of all such sales to the Magistrate in the form specified in Appendix D., and the costs upon every such proceeding shall be such as are mentioned and set forth in Appendix E. annexed to this Act.

Penalty for Tax Darogah &c., purchasing, at such sales.

XLV. Any Tax-Darogah or other servant appointed under this Act, any Chowkeydar or Officer of Police, who shall purchase any property at any such sale as aforesaid, shall be liable, upon conviction before a Magistrate, to a penalty not exceeding fifty Rupees ; and the property shall be confiscated.

Sale of property beyond limits of town, &c.

XLVI. If no sufficient goods or chattels belonging to a defaulter, or being upon the premises in respect of which he is assessed or rated, can be found within the district in which the premises are situate, the Magistrate may issue his warrant to the Nazir of his Court for the distress and sale of any personal property or effects belonging to the defaulter within any other part of the jurisdiction of the Magistrate,

or for the distress and sale of any personal property belonging to the defaulter and within the jurisdiction of any other Magistrate whatsoever; such other Magistrate shall back the warrant so issued, and cause it to be executed, and the amount, if levied, to be remitted to the Magistrate issuing the warrant.

XLVII. All goods and chattels, except tools or implements of trade, which may be found upon any premises in respect of which an arrear is due, shall be liable to be distrained for the recovery of such arrear. If the goods and chattels belong to any person other than the defaulter, the defaulter shall indemnify the owner of such goods and chattels from any damage he may sustain by reason of such distress or by reason of any payment he may make to avoid such distress or any sale under the same. Provided that no distress shall be made for any arrears due under this Act, after the expiration of six calendar months from the time when such arrears became due.

All goods found on premises liable to sale. But owner of goods to be indemnified by the defaulter.

XLVIII. Every person who shall wilfully obstruct or molest any Tax-Darogah or any of his establishment in the performance of their duties under this Act, or shall fraudulently conceal, remove, or dispose of any of his property for the purpose of avoiding a distress under the provisions of this Act, or shall knowingly assist any other person in so doing, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty Rupees.

Penalty for obstructing Tax-Darogah in execution of duty.

XLIX. The Magistrates shall receive and try all complaints preferred on oath or solemn affirmation against any Tax-Darogah, or other person appointed under this Act, for extortion, malversation, or other misconduct in the discharge of his duty. On proof of any such offence, the Tax-Darogah or other person as aforesaid shall be liable to dismissal from office, and to imprisonment, with or without labor, for a period not exceeding six months, and may also be compelled to refund any money corruptly or unduly exacted or received, and to deliver up any effects which may have been illegally distrained or sold, or the value thereof, or in default

Magistrates to try complaints against Tax-Darogah of extortion, &c. Penalty for extortion, &c. Proviso.

and until such delivery or refund be made, shall be liable to further imprisonment, with hard labor, for not more than six months. But nothing in this Section shall be taken to prevent the Magistrate from committing any Tax-Darogah or other person as aforesaid for trial before the Sessions Court, or to limit the power of the Sessions Court in regard to the punishment of such offences under the general law.

Powers, duties, and liabilities of Chowkeydars, Jemadars, and Inspectors.

L. The Chowkeydars and the Jemadars and Inspectors appointed under this Act shall exercise all the powers, and perform all the duties, and be subject to all the liabilities of Police Officers as prescribed in the General Regulations of the Bengal Code or Acts of the Government of India for the time being in force, so far as such powers, duties, and liabilities are not inconsistent with, or otherwise expressly provided for, by this Act. The Chowkeydars and the Jemadars and Inspectors are in all respects subordinate to the Police Darogah of the Thanna, within the limits of which they may be employed.

Chowkeydars to wear badges.

LI. Every Chowkeydar appointed under this Act shall wear a badge with a number, and the name of the city, town, place, or division for which he is appointed, engraved thereon.

Duties of Chowkeydars.

LII. Every Chowkeydar and every Jemadar and Inspector appointed under this Act shall have power, without warrant, to apprehend and convey immediately to the nearest Police Station any person or persons taken in the act of committing any heinous offence, or whom he shall have just cause to suspect to be about to commit or to have committed a heinous offence, or against whom a hue and cry shall be raised.

Second.—He shall have power to prevent obstructions and nuisances on the roads and streets.

Third.—He shall give immediate intelligence to the Police Darogah of the resort to his division of any receivers of stolen goods, or of any robbers or other persons of notorious or suspected character, or of any circumstances likely to occasion a breach of the peace.

Fourth.—He may stop, examine, and if necessary detain, any person who shall be reasonably suspected at any time of having or conveying any thing stolen, or who shall be found between sunset and sunrise lying or loitering in any highway, yard, or other place, and unable to give a satisfactory account of himself, and may convey such person to the nearest Police Station.

LIII. If a Chowkeydar or other Police Officer be unable to effect an arrest, he may require all persons present to assist him; and any person who refuses or neglects to comply with such requisition, shall be liable, on conviction by a Magistrate, to a fine not exceeding fifty Rupees, or to imprisonment not exceeding two months.

All persons required to assist Chowkeydars in making arrests.

LIV. On the fifteenth day of each month, or on such other day not later than the fifteenth day of the month as the Magistrate may appoint, the Chowkeydars and the Jemadars and Inspectors (if any) shall be mustered at the Thanna to which they are attached, and the Police Darogah or Mohurrir of the Thanna shall there pay them the wages due to them up to the close of the preceding month, and shall at the same time take the receipt of each Chowkeydar in an official register of receipts prepared for the purpose; and the Darogah, after signing the register in attestation of its correctness, shall transmit the same to the Magistrate.

Chowkeydars, &c., how to be paid.

LV. Any Chowkeydar and any Jemadar or Inspector appointed under this Act, who is convicted of neglect of duty or misconduct, shall be liable to fine to an extent not exceeding half a month's wages, or to imprisonment for any period not exceeding six months.

Punishment of Chowkeydars for neglect of duty, &c.

LVI. The Magistrate may suspend or dismiss any officer appointed under this Act, whom he shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Suspension or dismissal of Police Officers.

LVII. All fines levied under this Act shall be credited to the Chowkeydaree Fund, and held available for the purposes of this Act.

Fines how to be disposed of.

Jurisdiction.

LVIII. Assistants to Magistrates vested with special powers, and Deputy Magistrates vested with special powers, when posted at stations other than the sudder station of the Magistrate, and empowered under Act X. of 1854 to try cases without reference from the Magistrate, may exercise all the powers hereby vested in a Magistrate; and any Assistant or Deputy Magistrate vested with special powers may perform any of the duties hereby assigned to a Magistrate when referred to him by the Magistrate to whom he is subordinate.

Proceedings of
Magistrate and
Commissioner of
Circuit respec-
tively subject to
control.

LIX. All the proceedings of a Magistrate under this Act, except as otherwise specially provided, shall be subject to the control of the Commissioner of Circuit; and all the proceedings of the Commissioner of Circuit shall be subject to the control of the Local Government.

Act not to ap-
ply to Town of
Calcutta.

LX. Nothing contained in this Act shall extend to the Town of Calcutta.

Interpretation
of Act.

LXI. Wherever in this Act, or in any appendix thereto, there is nothing in the context requiring a different interpretation—

The word “Magistrate” shall include a Joint Magistrate and any person lawfully exercising the powers of a Magistrate.

The words “House” shall include any shop or ware-house.

The word “Bazaar” shall mean any place of trade where there is a collection of shops or ware-houses.

The word “District” shall mean a city, town, bazaar, or union, or any division thereof.

The expression “Police Darogah” shall include any Tuhseeldar or Naib Tuhseeldar entrusted with Police jurisdiction.

APPENDIX A.

To

[*Here insert the names, places of abode, business, or other description of the Panchayet.*]

I do hereby require you, the Panchayet appointed under Act XX. of 1856, with all reasonable expedition, not

exceeding (*here insert a period to be fixed by the Magistrate*), from the date hereof, to make out and forward to me, the undersigned Magistrate of the Zillah of _____ a fair and equitable assessment upon the several occupiers of houses, shops, and buildings, in the (*here describe the city, town, place, or division,*) for the purpose of raising the sum of Rupees _____ required for the maintenance of Chowkeydars for the year commencing on _____ and other expenses authorized by Act XX. of 1856. You shall regulate and determine the amount of assessment to be levied from every such occupier according to the circumstances and the property to be protected of each person. But the amount assessed in respect of any one house shall not exceed Rupees (*here insert the pay of a Chowkeydar of the lowest grade*) and the aggregate amount assessed shall not exceed the average rate of 2 annas per mensem for each house, shop, or building in the district.

If the occupier of any house in the said district shall be unable, on the ground of poverty, to pay the assessment to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied, by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments from such persons or lodgers or travellers, shall be deemed the occupier of such house, and shall be assessed accordingly.

The assessment which you are hereby required to make shall specify the name of every occupier of property liable to be assessed, the name, trade, or business or other description of the person assessed, the annual assessment, and the quota payable monthly; and may be in the following form, or to the like effect—

Property occupied.	Name of occupier.	Profession or business or other description.	* Amount of monthly payment.

APPENDIX B.

To

[*Here insert names, places of abode, business, or other description of the Panchayet.*]

I do hereby require you, the Panchayet appointed under Act XX. of 1856, with all reasonable expedition, not exceeding (*here insert a period to be fixed by the Magistrate*), from the date hercof, to make out and forward to me, the undersigned Magistrate of the Zillah of , a fair and equal rate upon the several occupiers of houses, shops, and buildings, and of grounds occupied for the purpose of trade or business, in the (*here describe the city, town, place, or division*), for the purpose of raising the sum of Rupees required for the maintenance of Chowkeydars for the year commencing on and other expenses authorized by Act XX. of 1856. You shall regulate and determine the amount of the rate to be levied from every such occupier according to the annual value of the property occupied.

The rent at which any such property may reasonably be expected to let for one year shall be deemed the annual value of such property. The rate shall be an equal per-cent-age, not exceeding 5 per cent. of such annual value.

Any person occupying ground for the purpose of trade, is to be rated in respect thereof, but a person occupying ground for the purpose of cultivation or for depasturing cattle, is not to be rated in respect thereof.

If the occupier of any house or ground in the said district shall be unable, on the ground of poverty, to pay the rate to which he is liable under this Act, you shall exempt him from the same; but the property occupied, together with the name and description of such occupier, shall be specified in the list, together with the ground of exemption.

If any house be let out in portions to different persons, or be let out to or occupied by lodgers or travellers, the person who shall so let the same, or who shall receive the rents or payments for such persons or lodgers or travellers, shall be deemed the occupier of such house, and shall be rated accordingly.

The rate which you are hereby required to make shall specify the name of every occupier of property liable to be rated, the name, trade, or business or other description of the person rated, the annual rateable value of the property, the annual rate, and the quota payable monthly; and may be in the following form, or to the like effect:—

Property occupied.	Name of occupier	Profession or business or other description	Annual value of property.	Annual rate.	Amount of monthly payment

APPENDIX C

An assessment (or rate, as the case may be,) made for (here describe the city, town, village or other place or division for which the rate is made) upon the several occupiers of houses and other property in the said district, pursuant to Act XX. of 1856, for the purpose of maintaining Chowkeydars for such district.

Property occupied.	Names of occupiers.	Profession or business.	Amount of monthly (or quarterly) assessment (or rate.)

Whereas the above assessment (or rate, as the case may be,) has been duly made pursuant to Act XX. of 1856, and has been revised and settled by me, the undersigned Magistrate of _____, the several persons whose names are included in the said assessment (or rate) are hereby required to pay the monthly (or quarterly) contributions set opposite to their names with regularity to the Tax-Darogah or other person appointed by the Magistrate to receive the same, the first payment on the 10th day of the month next succeeding the date of this Notification, and every subsequent payment on or before the 10th day of each succeeding month (if the tax is to be collected quarterly, the months in which the payment is to be made must be specified), or in default thereof, any arrear that may be due will be realized by distraint and sale of the personal effects of the defaulter, or of any goods and chattels which may be found on the premises in respect of which such defaulter is assessed (or rated) and such other proceedings adopted for the recovery of the same as are allowed by law.

Dated this _____

_____ day of _____
Magistrate of _____

APPENDIX D.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
District.	Names of defaulters.	Amount of defaultation.	Amount, cost or penalty.	Inventory of property seized under distress.	Date of distress.	Date of sale.	Property sold.	Amount realized on each article.	Purchaser's name.	Balance.

APPENDIX E.

Table of Fees payable in Distraints under this Act.

SUM DISTRAINED FOR.										FEE.	
										Rs.	As.
Under 1 Rupee	...	...	...	...	...	...	...	...	...	0	4
1 and under 3 Rupees	...	...	...	...	...	...	...	...	...	0	8
3 " 5	...	...	...	...	...	...	...	...	...	1	0
5 " 10	...	...	...	...	...	...	...	...	...	1	8
10 " 15	...	...	...	...	...	...	...	...	...	2	0
15 " 20	...	...	...	...	...	...	...	...	...	2	8
20 " 25	...	...	...	...	...	...	...	...	...	3	0
25 " 30	...	...	...	...	...	...	...	...	...	3	8
30 " 35	...	...	...	...	...	...	...	...	...	4	0
35 " 40	...	...	...	...	...	...	...	...	...	4	8
40 " 45	...	...	...	...	...	...	...	...	...	5	0
45 " 50	...	...	...	...	...	...	...	...	...	5	8
50 " 60	...	...	...	...	...	...	...	...	...	6	0
60 " 80	...	...	...	...	...	...	...	...	...	7	8
80 " 100	...	...	...	...	...	...	...	...	...	9	0
Above 100	...	...	...	...	...	...	...	...	...	10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case 3 annas must be paid daily for each man.

BENGAL

ACT No. XXI OF 1856.*

* Act XXII 1860,
is to be read with
this Act as one Act

- 1 *Regulations and Acts repealed.*
- 2 *Collectors of Land to have charge of Abkaree Revenue.*
- 3 *Government may appoint Commissioners of Abkaree.*
- 4 *Collectors may appoint Abkaree Officers Thuseeldars may be Abkaree Darogahs*
- 5 *English distilleries not to be constructed or worked without license*
6. *Board of Revenue to prescribe rules for regulating English distilleries*
7. *Rate of duty to be levied on spirits*
8. *Drawback on exportation*
10. *Rules to be observed in the exportation of spirits*
- 11 *Duty to be recovered on any deficiency in spirits under bond.*
- 12 *Spirits intended for exportation may be removed for local consumption*
- 13 *Recovery of sums due under bond*
- 14 *Spirits how to be shipped Spirits shipped for exportation not to be re-landed.*
- 15 *No drawback on spirits exported to Imports or shipped as stores*
- 16 *Rum shrub &c how to be charged with duty,—may be exported under the same rules as spirits*
- 17 *Distilleries within twenty miles of Calcutta to be under the Collector of Calcutta*
- 18 *Penalty for constructing or working a distillery, or collecting materials without license*
- 19 *Penalty for non observance of rules prescribed by Board of Revenue*
- 20 *Penalty for removing spirituous liquors without payment of duty*
21. *Penalty for irregular re-land of spirituous liquors*
- 22 *Spirits from foreign territory subject to duty*
23. *Construction or working of breweries and manufacture of malt liquor, without license, prohibited*
- 24 *Penalty*
- 25 *Spirituous and fermented liquors not to be sold without license.*
- 26 *Fee for wholesale license.*
- 27 *Fee for retail license What to be held a retail sale.*
- 28 *Country spirits, liquors, and drugs not to be sold without license*
- 29 *Taree to be held to be a fermented liquor.*
- 30 *Proviso*

-
31. *Collectors may establish distilleries for country spirits.*
 32. *Board may prescribe rules for distilleries.*
 33. *And regulate the mode of supplying taree and intoxicating drugs to the licensed vendors thereof.*
 34. *Supply of Opium to licensed vendors. Proviso.*
 35. *Sale of more than specified quantities of country spirits, &c., prohibited.*
 36. *Duty on the retail sale of country spirits, &c.*
 37. *Licensed retail vendors of country spirits to furnish security.*
 38. *Duration and renewal of license.*
 39. *Board to regulate form of license.*
 40. *License may be recalled in certain cases.*
 41. *Surrender of license.*
 42. *Recovery of arrears of tax or duty.*
 43. *Penalty for refusing to produce license on demand of Abkaree Officer, or for breach of license.*
 44. *Penalty for sale in contravention of license. Proviso.*
 45. *Penalty for permitting drunkenness, &c., in shop.*
 46. *Penalty for conveying country spirits from distillery without pass, &c.*
 47. *Penalty for contravention of rules prescribed by the Board of Revenue.*
 48. *Penalty for illicit manufacture or sale of country spirits, &c. Proviso.*
 49. *Penalty for illegal possession of country spirits, &c. Proviso.*
 50. *Provisions of the two last preceding Sections not to apply to the sale and possession of taree when supplied to sugar manufactories, nor to the sale and possession of ganjah and bhang by cultivators. Cultivators of ganjah or bhang to sell only to licensed persons.*
 51. *Penalty for having in possession a greater quantity of opium than five tolahs weight.*
 52. *Exception in favor of.*
 53. *Penalties for sale of adulterated opium, &c., by licensed vendors.*
 54. *Penalty for conniving at the illicit manufacture or sale of spirits, &c.*
 55. *Power of Abkaree officers to inspect shops.*
 56. *And to arrest persons carrying spirits, &c., liable to confiscation.*
 57. *And to arrest unlicensed distillers, &c.*
 58. *Power of Abkaree officers to search on information of illicit manufacture or possession.*
 59. *Officers of the Police, Customs, and Revenue Departments may be vested with same powers as Abkaree Officers.*

60. *Abkaree officer to report every arrest, seizure, or search to his official superior, and to take the person arrested to the Magistrate for trial, &c.*
61. *Collector may issue warrant of arrest in certain cases.*
62. *Collector may issue search-warrant.*
63. *Procedure after arrest or seizure.*
64. *Penalty for obstructing Abkaree Officers.*
65. *Police Officers to assist Abkaree Officers. Penalty.*
66. *Penalty for maliciously giving false information.*
67. *Penalty for vexatious search or seizure.*
68. *Penalty on Abkaree Officers for delay in reporting arrest, &c., or in carrying person arrested to Magistrate or Collector.*
69. *Penalty for conniving at escape of persons arrested, &c.*
70. *Penalty for asking or taking gratuities.*
71. *Adjudication of penalties and seizures.*
72. *Procedure in cases other than those of persons sent in custody by a Collector or Abkaree Officer.*
73. *Punishment on second or subsequent conviction.*
74. *Confinement in Civil Jail.*
75. *Disposal of confiscated goods.*
76. *Disposal of fines, &c., as rewards. Rewards where no fine is realized.*
77. *Fines undisposed of to belong to Government. Special rewards to informers.*
78. *Appeals from orders and sentences passed under this Act.*
79. *Collector, with the sanction of the Board of Revenue, may farm out the duties leviable on the sale of spirits, &c., except opium.*
80. *Board of Revenue to regulate invitation and acceptance of tenders for such farm.*
81. *The farmer to make his own arrangements with the manufacturers and vendors within the limits of his farm.*
82. *List of licenses granted by farmer to be filed. Restrictions with respect to grant of licenses.*
83. *Lease may be cancelled. Compensation to farmers in certain cases.*
84. *Recovery of arrears of tax or duty from or by farmers.*
85. *Rules respecting the manufacture and sale of spirits, &c., in Military Cantonments.*
86. *Mode of making arrest or search within Military Cantonments.*
87. *Powers vested in officers of the Opium Department.*
88. *Provisions not applicable to the Town of Calcutta. Saving of provisions of Act XI. 1849.*
89. *Commencement of Act.*
90. *Construction.*

An Act to consolidate and amend the law relating to the Abkatee Revenue in the Presidency of Fort William in Bengal •

WHEREAS it is expedient that the laws relating to the manufacture of spirits and the sale of spirituous and fermented liquors and intoxicating drugs, and the collection of the revenue derived therefrom, should be consolidated and amended It is enacted as follows —

I Regulation II 1802, Regulation X 1813, Regulation XVII 1814, Section XLI. and the following Sections of Regulation XIII. 1816, Regulation XI 1818, Regulation VII 1824, except the first five Clauses of Section XVIII and Sections XXIII and XXIV, and Regulation VIII 1826 of the Bengal Code; and Act XXV of 1840, Act IX of 1841, and Act XXIII of 1848, are hereby repealed, except so far as they repeal the whole or part of any other Regulation or Act, and except as to acts done, offences committed, and liabilities incurred, before the passing of this Act

Regulations
and Acts repealed

II The collection of the revenue arising from the manufacture of spirits, and the sale of spirits and spirituous and fermented liquors and intoxicating drugs, shall be ordinarily under the charge of the Collectors of Land Revenue, who shall perform the duties connected therewith under the control and direction of the Commissioners of Revenue, and of the Board of Revenue But the Government may appoint any other person to be Superintendent of Abkatee Revenue in any district or place, and any person so appointed shall exercise, in such district or place, all the powers and authority vested by this Act or by Act XI of 1849 in the Collector of Land Revenue, and such powers and authority shall cease to be exercised in such district or place by the Collector of Land Revenue during the continuance of such appointment

Collectors of
Land Revenue
to have charge
of the Abkatee
Revenue

III The Government may also appoint a Commissioner or Commissioners for the control and direction of the officers having charge of the Abkatee Revenue in any district or districts, and when such appointment is made, the Commissioner of Abkatee shall exercise within such district or dis-

Government
may appoint
Commissioners
of Abkatee

tricts the powers and authority vested by this Act or by Act III. of 1856 in Commissioners of Revenue; and the Revenue Commissioners shall cease to exercise such powers and authority in the said district or districts during the continuance of such appointment.

Collectors may
appoint Abkaree
officers.
Tuhseeldars may
be Abkaree Da-
rogahts

IV. Collectors may appoint darogahts, jemadars, peons, surveyors, gaugers, and other officers, for the collection of the Abkaree revenue and for the prevention of smuggling, and the officers so appointed shall, in addition to their ordinary designations, be styled Abkaree Officers. In districts where there are Tuhseeldars and other local officers for the collection of the Land Revenue, the office of Abkaree Darogah may be united with that of Tuhseeldar, Naib Tuhseeldar, or Peshkar; and in such cases, the Tuhseeldar, Naib-Tuhseeldar, or Peshkar, and the officers subordinate to him, shall be held and deemed to be Abkaree Officers within the meaning of this Act.

* Constructed or
worked without
license

V. It shall not be lawful for any person to construct or work a distillery after the manner in which distilleries are constructed and worked in England, without a license under the signature of the Collector of the district in which such distillery is situated, or in case the distillery is within twenty miles of Calcutta, or such other distance less than twenty miles, as may from time to time be prescribed by the Lieutenant-Governor of Bengal, under the signature of the Collector of Calcutta.

Board of Revenue
to prescribe
rules for regulat-
ing English dis-
tilleries

VI. The Board of Revenue, with the sanction of Government, may prescribe such rules relative to the granting of licenses under the preceding Section, to the notices to be given by the proprietor of a licensed distillery when he commences and discontinues work, to the size and description of the stills, to the passing and storing of the spirits, to the inspection and examination of the distillery and ware-houses and of the spirits manufactured and stored therein, and to the furnishing of statements and lists of such spirits, and of the stills, coppers, casks, and other utensils used in the distillery, as may from time to time be judged expedient.

VII. A duty shall be levied on spirits manufactured at distilleries worked according to the English method, at the rate of one Rupee the imperial gallon of the strength of London-proof, to be augmented or reduced in proportion to the strength of the spirit. No spirit shall be removed from any such distillery, or the ware-houses connected therewith, upon which the aforesaid duty has not been paid, or for the duty chargeable on which a bond has not been executed as hereinafter provided; and for all spirits removed upon payment of duty or under bond, passes shall be issued by the Collector, which shall specify the quantity and strength of the spirit, the place of its destination, the person to whom it is consigned, and whether the duty has been paid or secured by bond.*

Rate of duty to
be levied on
spirits.

VIII. A drawback of the duty paid as above on spirits manufactured after the English method, and exported by sea in the manner hereinafter prescribed, to any port not subject to the Government of the East India Company, or to any port in the Settlement of Prince of Wales' Island, Singapore, and Malacca, or to the port of Aden, shall be allowed by the Collector of Customs at the port of exportation. Provided always, that the exportation shall be made within one year from the date of the payment of duty under this Act, and that the spirits, when brought to the Custom House, shall be accompanied by the pass in which such payment is certified.

Drawback on
exportation.

IX. Repealed by Act XXIII. of 1860.

X. Spirits brought to the Custom House for exportation by sea shall, previous to shipment, be gauged and proved by an officer of the Customs. The amount of drawback to be allowed upon spirits for which duty has been paid shall be regulated according to the strength and quantity of the said spirits as ascertained by such proof and gauge; and the quantity of spirits for which credit is to be given in the settlement of any bond, shall be determined in the same manner. Spirits under bond shall be taken from the distillery direct to the Custom House, under passes to be granted for that purpose by the Collector.

Rules to be ob-
served in the ex-
portation of
spirits.

* This Section has been modified by Act XXIII. 1860.

Duty to be recovered on any deficiency in spirits under bond.

XI. When spirits are passed from a distillery under bond, duty shall be recoverable upon any difference between the quantity of spirits so passed from the distillery and the quantity ascertained by gauge and proof at the Custom House, less such allowance for ullage and leakage as may be prescribed by the Board of Revenue.

Spirits intended for exportation may be removed for local consumption.

XII. Spirits brought to the Custom House under bond for exportation may nevertheless be removed for local consumption under passes to be granted for that purpose by the Collector of Revenue, upon payment of the prescribed duty on the quantity so removed; and credit for such payment shall be given on the settlement of the bond.

Recovery of sums due under bond.

XIII. Any sum which may remain due to Government upon the settlement of a bond executed according to the provisions of this Act, may be recovered by any process which is or may be in force for the recovery of arrears of revenue due from farmers of land or their sureties, or by suit on the bond in any Court of competent jurisdiction.

Spirits how to be shipped. Shipped for exportation not to be re-landed.

XIV. No drawback shall be allowed on any duty-paid spirits, nor shall the duty due on any spirits under bond be remitted, unless the spirits shall be shipped from the Custom House, and upon a vessel to which a Custom House officer has been appointed to superintend the receipt of export cargo. Spirits shipped for exportation shall not be re-landed without a special pass from the Collector of Revenue in addition to the usual order of the Collector of Customs.

No drawback on spirits exported to certain ports or shipped as stores.

XV. No drawback shall be allowed on spirits exported to any port subject to the Government of the East India Company, other than the ports mentioned in Section VIII. of this Act, or on spirits shipped as stores; nor shall spirits under bond be so exported or shipped without payment of the duty prescribed by this Act.*

Rum shrub may be exported under the same rules as spirits.

XVI. Rum, shrub, cordials, and other liquors, prepared in a licensed distillery under the supervision of the surveyor or officer in charge of the distillery, shall be charged with duty according to the quantity of spirit used in the prepara-

* This Section has been modified by Act XXIII., 1860.

tion ; and all the provisions contained in this Act respecting spirits manufactured after the English method, except such as relate to gauge and proof, shall be applicable to such liquors. When any such liquors are removed for exportation without payment of duty, the bonds to be executed by the persons removing them shall be in the annexed form.

XVII. All licensed distilleries, constructed and worked after the English method, and situated within twenty miles of Calcutta, or such other distance less than twenty miles as may from time to time be prescribed by the Lieutenant-Governor of Bengal, shall be under the superintendence and control of the Collector of Calcutta, who shall exercise, with respect to such distilleries and to the spirits manufactured therein, all the powers vested in Collectors by this Act ; and the Collectors of districts in which any such distilleries are situated shall have no jurisdiction with respect to such distilleries.

Distilleries within 20 miles of Calcutta to be under Collector of Calcutta.

XVIII. Every person who shall construct or work a distillery after the English method, without a license from the Collector, shall forfeit for every such offence a sum not exceeding one thousand Rupees ; and all spirits manufactured at any such distillery, and all materials and implements collected for the purpose of such manufacture, shall be liable to confiscation.

Constructing or working a distillery without license.

XIX. Every proprietor or manager of a licensed distillery constructed and worked after the English method, who shall omit to furnish any notice or any statement or list required by the rules prescribed by the Board of Revenue under Section VI. of this Act, or shall wilfully do any thing in contravention of the said rules, shall forfeit for every such offence a sum not exceeding two hundred Rupees ; and if any such offence be committed a second time with respect to the same distillery, the license granted for the working of such distillery may be withdrawn by the Collector.

Penalty for non-observance of rules prescribed by Board of Revenue.

XX. Every person who shall remove, or attempt to remove, from any licensed distillery constructed and worked after the English method, any spirituous liquors upon which

Penalty for removing liquors without payment of duty.

the duty has not been paid, or for the duty on which a bond has not been executed, or any spirituous liquors for which a pass has not been issued by the Collector, shall forfeit for every such offence a sum not exceeding one thousand Rupees; and the liquors, together with the vessels containing the same and the animals and conveyances used in carrying them, shall be liable to confiscation. If it shall appear to the Collector that the offence was committed with the consent or knowledge of the proprietor or manager, the license granted for the construction and working of the distillery from which such liquors have been removed or attempted to be removed may be withdrawn.

Penalty for irregular re-land of spirituous liquors.

XXI. Every person who shall re-land, or attempt to re-land, any spirituous liquors shipped for exportation, without a special pass from the Collector of Revenue at the place of exportation, shall forfeit for every such offence a sum not exceeding five hundred Rupees; and the liquors, together with the casks and vessels containing the same, and the carts, boats, and animals employed in carrying them, shall be liable to confiscation.

Spirits from foreign territory subject to duty.

XXII. Spirituous liquors manufactured at the foreign settlement of Chandernagore, or at any other place in India beyond the limits of the Company's territories, shall, on passing the limits of the Company's territories subject to this Act, be charged with the duty prescribed for proof spirits in Section VII. of this Act: and any person who may be found in possession of any such liquors, without a pass from the Collector certifying the payment of such duty, shall forfeit for every such offence a sum not exceeding two hundred Rupees; and the liquors, together with the vessels containing the same and the animals and conveyances used in carrying them, shall be liable to confiscation.

Construction or working of breweries &c., without license, prohibited.

XXIII. It shall not be lawful for any person to construct or work a brewery, or to manufacture any description of malt liquor, without a license from the Collector of the district. The Board of Revenue, with the sanction of

Government, may prescribe such rules relative to the granting of licenses for constructing and working breweries as may from time to time be judged expedient.

XXIV. Every person who shall construct or work a brewery, or manufacture malt liquor, without a license, shall forfeit for every such offence a sum not exceeding five hundred Rupees.

Penalty for
brewing malt
liquor.

XXV. Spirituous liquors passed from distilleries worked according to the English method, fermented liquors manufactured at a licensed brewery, and spirituous and fermented liquors imported either by land or by sea, shall not be sold except under license from the Collector.

Spirituous and
fermented li-
quors not to be
sold without
license.

XXVI. Persons taking out licenses for the whole sale vend of spirituous and fermented liquors as aforesaid shall pay, for every such license, the sum of sixteen Rupees. The license shall be current only during the official year, and in the district in which it is granted. But travelling merchants may obtain a general license, authorizing them to sell by whole sale, in any district which they may visit in the course of their travel, without taking out a fresh license for that district, under such rules and restrictions as may be from time to time prescribed by the Board of Revenue.

Fee for whole-
sale license.

XXVII. Persons taking out licenses for the retail sale of spirituous and fermented liquors as aforesaid shall pay, for every such license, such fee or tax as may be fixed by the Board of Revenue; and such fee or tax shall be payable at such periods as the said Board may direct. Provided that such fee or tax shall be at such rate for each license as shall not exceed the total sum of one hundred Rupees for the whole year. Any sale of spirituous or fermented liquors as aforesaid, in less quantity than two imperial gallons or one dozen of quart bottles, shall be held to be a retail sale.

Fee for retail
license. What to
be held a retail
sale.

XXVIII. It shall not be lawful for any person to manufacture spirits after the native process, nor to sell such spirits, or tacec, or puchwyt, or ganjah, bhang, churru,

Country spirits,
liquors, and drugs
not to be sold
without license.

opium, or any preparation or admixture of the same, except under license from the Collector.

Taree to be held
to be a fermented
liquor.

XXIX. All the provisions relating to the sale or possession of fermented liquors contained in the following Sections of this Act, shall be held applicable to the sale or possession of taree, whether in a fermented state or otherwise; and all taree, both fresh and fermented, shall be held to be included in the expression "fermented liquors" as used in the following Sections of this Act.

Proviso.

XXX. Provided, however, that it shall be lawful for Government, on the report of the Board of Revenue, to pass an order suspending the operation of all the provisions relating to taree, contained in this Act, with respect to any district in which the consumption of taree in a fermented state is inconsiderable; and after the passing of any such order, it shall be lawful for taree to be possessed and sold without license in any such district, notwithstanding any thing contained in this Act. ●

Collectors may
establish dis-
tilleries for coun-
try spirits.

XXXI. The Collector, with the sanction of the Board of Revenue, may establish, at any place within his jurisdiction, a distillery in which spirits may be manufactured after the native process; and may from time to time fix limits within which no country spirits, except such as are manufactured at the said distillery, shall be introduced or sold without a special pass from the Collector, and within which no stills shall be constructed or worked, or spirits manufactured, except at the said distillery. He may also, with the like sanction, discontinue any distillery so established, whenever its discontinuance may appear to be expedient.

Board may pre-
scribe rules for
distilleries.

XXXII. The Board of Revenue may prescribe such rules relative to the management of distilleries established under the last preceding Section, to the conditions on which spirits may be manufactured in the said distilleries, and to the passes to be issued for the conveyance of such spirits to the shops of the vendors, as may from time to time be judged expedient.

XXXIII. The Board of Revenue may regulate the mode in which taree shall be supplied to licensed vendors of the same ; and may frame rules for the grant of licenses or passes to persons purchasing, transporting, or storing ganjah, bhang, or churrus for the supply of the licensed vendors of those drugs. They may also place the cultivation, preparation, and store of the intoxicating drugs above-mentioned under such supervision as may be deemed necessary to secure the duty leviable thereon.

And regulate the supplying of Taree and intoxicating drugs to licensed vendors.

XXXIV. Opium shall be supplied to licensed vendors from the Government stores in such manner and at such prices as the Board of Revenue may direct : and no other description of opium shall be sold by such vendors. Provided that the Government may, by an order of Government, exempt any district or districts from the operation of this Section.

Supply of Opium to licensed vendors. Proviso.

XXXV. Except for the supply of licensed vendors, country spirits, taree, and puchwey, and intoxicating drugs, shall not be sold in larger quantities than are here-under specified,—namely, country spirits, one seer ; taree or puchwey, four seers ; ganjah or bhang, or any preparation or admixture of the same, one quarter of a seer ; churrus or opium, or any preparation or admixture of the same, five tolas weight : and the sale of any such quantity as is herein allowed shall be deemed to be a retail sale within the meaning of this Act.

Sale of more than specified quantities of country spirits, &c., prohibited.

XXXVI. Whenever a license for the retail sale of country spirits, taree, or puchwey, or intoxicating drugs, shall be granted under this Act, the Collector shall be authorized to demand, in consideration of the privilege granted, such tax or duty, or a tax or duty adjusted on such principles, as may from time to time be fixed with the sanction of the Board of Revenue ; and such tax or duty shall be specified in the license, and shall be payable at such periods as the said Board may direct. The Collector may grant special licenses for the sale of unfermented taree only, at those periods of the year

Duty on the retail sale of country spirits, &c.

when the fr  sh juice is in request : fees may be demanded for such special licenses at a rate not exceeding one Rupee for each license ; and the vendors shall not be subject to any other tax or duty in respect of such sale.

Licensed retail vendors of country spirits to furnish security.

XXXVII. Every person taking out a license for the manufacture of country spirits, or for the retail sale of spirituous or fermented liquors or intoxicating drugs, shall execute a counterpart engagement in conformity with the tenor of the license, and shall give such security for the performance of his engagement or make such deposit in lieu of security, as the Collector may require.

Duration and renewal of license.

XXXVIII. Unless otherwise specially authorized by the Board of R  venue, licenses for retail sale shall be granted for the term of one year, and if continued to the holders thereof shall be formally renewed from year to year. But it shall be incumbent on every person holding a license, who may intend not to renew it, to give notice of his intention to the Collector fifteen days previously to the expiration of the year ; and if such notice be not given, and the license be not recalled by the Collector, the license held and engagement entered into by every such person shall remain in force, as if the said license and engagement had been formally renewed.

Board to regulate form of license.

XXXIX. The Board of Revenue shall have authority to regulate the form and conditions of all licenses granted under this Act.

License may be recalled in certain cases.

XL. The Collector may recall or cancel any license granted under this Act, if the tax or duty therein specified be not duly paid, or in case of a violation of any other condition thereof, or of the holder being convicted of a breach of the peace or any other criminal offence. If the Collector desire to recall a license for any cause other than those above specified, he shall give fifteen days' previous notice and remit a sum equal to the tax for fifteen days, or if notice be not given, shall make such further compensation for default of notice as the Commissioner or Board of Revenue shall direct.

XXI. Any licensed retail vendor may surrender his license on giving fifteen days' previous notice to the Collector, and paying a sum equal to the tax for fifteen days over and above the sum payable under the license.

Surrender of license.

XLII. The Collector may recover any arrear of tax or duty due on account of any license granted under this Act, by distress and sale of the goods and chattels of the person from whom the same is due or of his surety, or by any other process which is or may be in force for the recovery of arrears of revenue due from farmers of land or their sureties.

Recovery of arrears of tax or duty.

XLIII. Every person licensed to manufacture country spirits, or to sell spirituous or fermented liquors or intoxicating drugs, who shall not produce his license on the demand of any Abkaree officer, or who shall commit any act in breach of any of the conditions of his license not otherwise provided for in this Act, shall forfeit for every such offence a sum not exceeding fifty Rupees.

Penalty for refusing to produce license or for breach of license.

XLIV. Every licensed retail vendor, who shall sell any larger quantity of spirituous or fermented liquors or intoxicating drugs than is allowed to be sold by retail by the provisions of this Act, and every licensed wholesale vendor who shall make a retail sale, shall forfeit for every such offence a sum not exceeding two hundred Rupees. Provided always, that nothing in this Section shall be held to prohibit the grant to the same person of both wholesale and retail licenses, subject to the provisions of this Act.

Penalty for sale in contravention of license.

Proviso.

XLV. Every person licensed to sell spirituous or fermented liquors or intoxicating drugs, who shall permit drunkenness, riot, or gaming in his shop, or shall permit persons of notoriously bad character to meet or remain therein, or shall receive any wearing apparel or other effects in barter for liquors or drugs, shall forfeit for every such offence a sum not exceeding 200 Rupees.*

Penalty for permitting drunkenness, &c., in shop.

XLVI. Every person who shall convey or attempt to convey any country spirits from a distillery established under

Penalty for conveying country spirits from

* This Section has been extended by Act XXI 1857, Section 9.

distillery without pass, &c.

Section XXXI. of this Act without a pass, or exceeding the quantity for which a pass shall have been granted, or shall introduce or attempt to introduce any country spirits manufactured at another place into the limits fixed for the consumption of spirits manufactured at such distillery, without a special pass from the Collector, shall forfeit for every such offence a sum not exceeding five hundred Rupees.

Penalty for contravention of Board's rules.

XLVII. Every person who shall wilfully contravene any rule prescribed by the Board of Revenue for the management of a distillery established as aforesaid, otherwise than as provided for in the last preceding Section, shall forfeit for every such offence a sum not exceeding fifty Rupees.

Penalty for illicit manufacture

XLVIII. Every person other than a licensed manufacturer who shall manufacture any country spirits, and every person other than a licensed vendor, or a person duly authorized to supply licensed vendors, who shall sell any spirituous or fermented liquors or intoxicating drugs, and every person authorized to supply licensed vendors, who shall sell any such liquors or drugs to any person other than a licensed vendor, shall forfeit for every such offence a sum not exceeding five hundred Rupees. Provided always, that nothing in this Section or in Section XXV. shall apply to the sale by auction of any spirituous liquors, wines, or beer purchased by any person for his private use and so disposed of upon such person quitting a station or after his decease.

or sale of country spirits, &c.

Proviso.

Penalty for illegal possession of country spirits, &c.

XLIX. Every person, other than a licensed manufacturer or vendor, or a person duly authorized to supply licensed vendors, who shall have in his possession any larger quantity of country spirits, or taree, or puchwe, or intoxicating drugs, except opium, than may legally be sold by retail under the provisions of Section XXXV. of this Act, or shall transport by land or by water, or have in his possession, any spirituous liquors made at a distillery worked according to the English method, or any imported spirituous or fermented liquors, in larger quantity than two gallons, without a pass from the Collector or other officer duly empowered in that

behalf, shall forfeit for every such offence a sum not exceeding two hundred Rupees; and the liquors and drugs, together with the vessels, packages, and coverings in which they are found, and the animals and conveyances used in carrying them, shall be liable to confiscation. Provided always, that nothing in this Section shall extend to any spirituous liquors, wines, or beer, purchased by any person for his private use and not for sale.

Proviso.

L. The provisions of the two last preceding Sections, so far as they relate to the sale and possession of fermented liquors, shall not be held applicable to the sale and possession of taree, the produce of the date tree, when supplied or used for the manufacture of goor or molasses; and the provisions of the said Sections relating to the sale and possession of intoxicating drugs, shall not be held applicable to the sale and possession of ganjah or bhang by the cultivators of the plants which produce those drugs respectively. But such cultivators are prohibited from selling any ganjah or bhang to any one other than a licensed vendor, or a person duly authorized to purchase by pass or license from the Collector; and every such cultivator, who shall act in breach of this prohibition, shall forfeit for every such offence a sum not exceeding five hundred Rupees.

In certain cases, provisions of the two last preceding Sections not to apply to the sale and possession of taree or of ganjah and bhang.

LI. Every person, other than a licensed vendor, who shall have in his possession a greater quantity of opium than five tolahs weight, shall forfeit for every such offence a sum not exceeding five hundred Rupees, unless the opium found in the possession of such person shall exceed the weight of thirty-one seers and a quarter, in which case the penalty may be increased at a rate not exceeding sixteen Rupees the seer for all the opium so found in excess of that weight; and the opium, together with the vessels, packages, and coverings in which it is found, and the animals and conveyances used in carrying it, shall be liable to confiscation.

Penalty for having in possession more opium than five tolahs weight.

LII. Provided always, that nothing in the last preceding Section shall extend to the persons and circumstances hereinafter specified, namely :—

Exception in favor of.

Cultivators

1. Authorized opium cultivators having newly extracted opium in their possession during the usual period between the full growth of the poppy, and the delivery of the produce to the Opium Agent.

Travellers.

2. Travellers and visitants from foreign states or countries having in their possession any quantity of foreign opium not exceeding two seers, the produce of such states and countries, and intended for the private use of such travellers and visitants, or their attendants, and not for sale or traffic.

Horse dealers.

3. Dealers in horses travelling with strings of horses from beyond the South-West frontier of the territory under the government of the Lieutenant-Governor of the North-Western Provinces, and having in their possession opium, the produce of foreign states or countries, not exceeding in quantity the proportion of ten tolahs weight for each horse.

If opium be found in the possession of any traveller or visitant or any dealer in horses as aforesaid, in excess of the quantities above specified, such excess shall be liable to confiscation, but the persons in whose possession it may be found shall not be subject to any further penalty.

Penalties for sale of adulterated opium, &c., by licensed vendors.

LIII. Every licensed vendor, who shall sell or offer for sale opium adulterated with any foreign substance, not being a preparation or admixture of opium for the sale of which such vendor may have taken out a license, or except in districts exempted from the operation of Section XXXIV. shall sell or have in his possession any opium other than the opium supplied to him from the Government stores, shall forfeit for every such offence a sum not exceeding five hundred Rupees, and the license held by him shall be withdrawn, and the opium, together with the vessels or packages in which it is found, shall be seized, and confiscated.

Penalty for conniving at the illicit manufacture or sale of spirits, &c.

LIV. Every proprietor, farmer, tihseeldar, gomastah, or other manager of land, who shall authorize or connive at the manufacture of country spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, shall forfeit for every such offence a sum not exceeding five hundred Rupees.

LV. Any Abkaree officer may enter and inspect at any time, by day or by night, the shop or premises in which any licensed manufacturer or retail vendor shall carry on the manufacture of country spirits, or the sale of spirituous or fermented liquors or intoxicating drugs.

Power of Abkaree officers to inspect shops.

LVI. Any Abkaree officer may stop and detain any person carrying any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act; and may seize the liquors or drugs with the vessels, packages, or coverings in which they are contained, and the animals and conveyances used in carrying them; and may also arrest the person in whose possession such liquors or drugs are found.

And to arrest persons carrying spirits, &c.

LVII. Any Abkaree officer above the rank of a jemadar or peons may arrest any person having in his possession an unlicensed still, or any spirituous or fermented liquors or intoxicating drugs liable to confiscation under this Act, or engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, and may seize such still with the materials for working it, and all such liquors and drugs.

And to arrest unlicensed distillers, &c.

LVIII. Whenever any Abkaree officer above the rank of a jemadar or peons shall have good reason to believe, from information given by any person, which information shall be taken down in writing, that spirits are unlawfully manufactured, or that any spirituous or fermented liquors, or intoxicating drugs liable to confiscation under this Act, are kept or concealed in any house, boat, or other place, such officer may, between sunrise and sunset, but always in the presence of a darogah or other officer of police not being under the grade of a jemadar, enter into any such house, boat, or place, and in case of resistance may break open any door, and force and remove any other obstacle to such entry; and may seize and carry away all stills and materials used in the manufacture of such spirits, and all such liquors and drugs; and may also arrest the occupier of the house, boat, or place with all other persons concerned in the manufacture of such spirits, or in the keeping and concealing of such liquors or drugs.

Power of Abkaree officers to search on information of illicit manufacture or possession.

Police, Customs, and Revenue officers may be vested with same powers as Abkaree officers.

LIX. The powers of seizure, search, and arrest, given to Abkaree officers by the three last preceding Sections, shall, in regard to the seizure and search for contraband opium and the arrest of persons found in possession thereof, be vested also in the officers of the Police, Customs, and Revenue Departments according to their respective grades. And it shall further be lawful for the Government to invest the officers of those departments, or of any of them, with the like powers with respect to the seizure of, and search for, spirituous and fermented liquors and intoxicating drugs of every description, and the arrest of persons found in possession of them, and all such officers when so empowered, as well as all Police, Customs, and Revenue officers when acting under the authority conferred by this Section for the suppression of illicit dealings in opium, shall be held and deemed to be Abkaree officers within the meaning of this Act.

Abkaree officer to report arrest, seizure, or search to his official superior, and to take the person arrested to the Magistrate for trial, &c.

LX. Whenever an Abkaree officer shall arrest any person, or seize any still, or any liquors or drugs liable to confiscation under this Act, or enter any house, boat, or place for the purpose of searching for any such illicit articles, he shall, within twenty-four hours thereafter, make a full report of all the particulars of such arrest, or seizure, or search, to his official superior, and unless acting under the warrant of the Collector, shall carry the person arrested, or the illicit article seized, with all convenient despatch, to the Magistrate for trial or adjudication.

Collector may issue warrant of arrest in certain cases

LXI. The Collector may issue his warrant for the arrest of any person whom he may have reason to believe, either from information in writing, or from the proceedings in any other case, to be engaged in the unlawful sale of spirituous or fermented liquors or intoxicating drugs, or to have in his possession any such liquors or drugs liable to confiscation under this Act.

Collector may issue search-warrant.

LXII. The Collector may issue his warrant for the search of any house, boat, or other place, in which, upon any of the grounds mentioned in the last preceding Section, he

may have reason to believe that spirits are unlawfully manufactured, or that spirituous or fermented liquors or intoxicating drugs, liable to confiscation under this Act, are kept or concealed, and such warrant may be executed by any officer above the rank of a jemadar of peons, in the manner prescribed in Section LVIII. of this Act.

LXIII. Whenever any person is arrested, or any articles are seized under the warrant of a Collector, the Collector, after such enquiry as he thinks necessary, shall send the person arrested or the articles seized to the Magistrate, or shall order the immediate discharge of such person or the release of such articles.

Pro-
cedure
after
arrest
or
seizure.

LXIV. Every person who shall obstruct or resist any Abkaree officer in the due execution of this Act, or of any rules prescribed under the authority thereof, shall forfeit for such offence a sum not exceeding five hundred Rupees.

Penalty
for
obstructing
Ab-
karee
officers.

LXV. All Police officers are required to aid the Abkaree officers in the due execution of this Act, upon notice given or request made by such officers; and any Police officer who, without lawful excuse, shall neglect or refuse to assist as aforesaid, and any Darogah or other officer in charge of a Police station, who, on application made by an Abkaree officer under Section LVIII. of this Act, shall fail to attend a search himself, or to depute a subordinate officer not being below the grade of a jemadar, shall forfeit for such offence a sum not exceeding five hundred Rupees.

Police
officers
to
assist
Ab-
karee
officers.

LXVI. Every person who shall maliciously give false information against any person as being engaged in the unlawful manufacture of spirits, or as selling or having in his possession any spirituous or fermented liquors or intoxicating drugs in contravention of this Act, and so procure that such person be arrested, or that any house, boat, or other place be searched, to the injury or annoyance of such person, or any other person whatsoever, shall forfeit for such offence a sum not exceeding five hundred Rupees, which sum or any

Penalty
for
maliciously
giving
false
information

portion thereof may be paid to the person aggrieved, and shall be further liable to imprisonment for a period not exceeding six months.

Penalty for vexatious search or seizure.

LXVII. Any Abkaree officer, who shall, without reasonable ground of suspicion, search or cause to be searched any house, boat, or other place, or shall vexatiously and unnecessarily seize the goods or chattels of any person, on the pretence of seizing or searching for any spirituous liquors or intoxicating drugs liable to confiscation under this Act, or shall vexatiously and unnecessarily arrest any person, or commit any other excess not required for the execution of his duty, shall forfeit for such offence a sum not exceeding five hundred Rupees, which sum, or any portion thereof, may be paid to the person aggrieved.

Penalty for delay in reporting arrest &c, or in carrying person arrested to Magistrate or Collector.

LXVIII. Any Abkaree officer who shall neglect to report the particulars of an arrest, seizure, or search within twenty-four hours thereafter, or shall delay carrying to the Magistrate or Collector, as the case may be, any person arrested, or any illicit articles seized under this Act, shall forfeit for such offence a sum not exceeding two hundred Rupees.

Penalty for conniving at escape of persons arrested, &c.

LXIX. Any Abkaree officer who shall unlawfully release or connive at the escape of any person arrested under this Act, or connive at the manufacture of spirits or the sale of spirituous or fermented liquors or intoxicating drugs by any unlicensed person, or by any licensed person contrary to the terms of his license, or act in a manner inconsistent with his duty, for the purpose of enabling any person to do anything whereby any of the provisions of this Act may be evaded or broken, or the Abkaree Revenue defrauded; and any darogah of Police, or other officer invested with local jurisdiction, who shall authorize or connive at the establishment of any unlicensed shop for the sale of such liquors or drugs as aforesaid in any place subject to his control, shall forfeit for such offence a sum not exceeding five hundred Rupees.

LXX. Any Abkaree officer who shall ask or take any unauthorized gratuity, in consideration of doing or omitting to do any act in his official capacity, shall forfeit for such offence a sum not exceeding five hundred Rupees.

Penalty for asking or taking gratuities.

LXXI. All forfeitures and penalties prescribed for offences against the provisions of this Act, and all seizures of goods declared liable to confiscation under this Act, shall be adjudged by the Magistrate on the information of the Collector or any Abkaree Officer. Provided, that no such information shall be necessary in any case of complaint preferred to a Magistrate under any of the seven last preceding Sections or under Section XLV.

Adjudication of penalties and seizures.

LXXII. In all cases in which complaint or information is preferred to a Magistrate of offences committed against this Act, not being cases in which persons are sent in custody by a Collector or Abkaree officer, the Magistrate shall issue a summons requiring the attendance of the person accused. The rules contained in the Regulations and Acts in force, for the trial of cases before a Magistrate and for appeal against orders passed by a Magistrate, shall be applicable to trials under this Act. Provided that no complaint or information of an offence against this Act shall be admitted, unless it be preferred within the period of six months after the commission of the offence to which the complaint or information refers.

Procedure in cases other than those of persons sent in custody by a Collector or Abkaree officer.

LXXIII. Whenever any person shall be convicted of an offence against this Act, after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

Punishment on second or subsequent conviction.

LXXIV. Every person who shall be imprisoned under the last preceding Section, or on account of the non-payment

Confinement in Civil Jail.

of any sum forfeited under this Act, if the offence of which he has been convicted be one with respect to which the information of the Collector or an Abkaree Officer is required by Section LXXI, shall be confined in the Civil Jail.

Disposal of
confiscated
goods.

LXXV. All goods and chattels adjudged to confiscation, except opium, shall be disposed of by the Collector by public sale. Opium seized and confiscated shall be sent for examination to the Civil Surgeon of the station, and, if declared by him to be fit for use, shall be transmitted to the Government factories, or otherwise disposed of in such manner as the Board of Revenue shall direct. If declared to be unfit for use, it shall be immediately destroyed.

Disposal of
fines &c, as re-
wards. Rewards,
where no fine is
realized.

LXXVI. One-half of all fines and forfeitures levied from persons convicted of the unlawful manufacture of spirits, or of the unlawful sale or possession of spirituous or fermented liquors or intoxicating drugs, and one-half of the proceeds from sale of all confiscated articles except opium, and in the case of opium confiscated and declared by the Civil Surgeon to be fit for use, a reward of one rupee eight annas for each seer, shall, upon adjudication of the case, be awarded to the officer or officers who apprehended the offender; and the other half of such fines and forfeitures and the other half of the proceeds of sale, or in the case of opium as aforesaid, a reward of one rupee eight annas for each seer shall be given to the informer. If in any case the fine or forfeiture is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred Rupees, as may seem to them fit; and the said Board may direct by general order what classes of Abkaree officers shall receive rewards, and what classes shall have no title to share therein.

Fines undis-
posed of to be-
long to Govern-
ment. Special
rewards to infor-
mers.

LXXVII. All fines and forfeitures levied under this Act, the disposal of which is not specially provided for, shall belong to Government; but the Board of Revenue may appropriate any portion thereof, not exceeding one-half, for rewarding informers, or for compensating persons subjected to annoyance or injury by any proceedings under this Act.

LXXVIII. All orders passed by a Collector under this Act shall be appealable to the Commissioner in the usual manner, under the laws and regulations in force relative to appeals from the orders of Collectors.

Appeals from
Collector's orders
and sentences.

LXXIX. It shall be lawful for the Collector, with the sanction of the Board of Revenue, to let in farm, for any period not exceeding five years, the duties leviable on the retail sale of spirituous or fermented liquors, or intoxicating drugs, or any description of such liquors or drugs, in any pergunnah or other known division of a district.

Collector, with
the sanction of
the Board, may
farm out the du-
ties.

LXXX. The Board of Revenue may prescribe rules for the invitation and acceptance of tenders for such farms and for the requisition of security for the due fulfilment of the engagements entered into by the farmers. The said Board may also regulate the form and conditions of lease; and any breach of those conditions shall render the lease liable to annulment.

Board of Reve-
nue to regulate
invitation and
acceptance of
tenders for such
farm.

LXXXI. When the duties leviable on any of the articles above enumerated are let in farm, the farmer shall be at liberty to make his own arrangements with the manufacturers and vendors within the limits of his farm; and all the penalties and forfeitures prescribed by this Act, for the unlawful manufacture, sale, or possession of any such article, shall be incurred by all persons manufacturing, selling, or possessing the same without license or authority from the farmer.

The farmer
to make his own
arrangements
with the manu-
facturers and
vendors.

LXXXII. Provided always, that every such farmer shall be required to file in the Collector's office a list of all the licenses granted by him in such form as may be prescribed by the Board of Revenue. Provided also, that it shall be lawful for the Collector, with the sanction of the said Board, before entering into engagements for any such farm, to make such reservations or restrictions with respect to the grant of licenses as may be deemed proper and expedient.

List of licenses
granted by far-
mer to be filed.
Restrictions
before grant of
licenses.

LXXXIII. The Collector may, with the sanction of the Board of Revenue, cancel any lease granted under this Act;

Lease may be
cancelled. Com-
pensation to far-

mers in certain cases.

or, within the period of the lease, impose any new restriction on the farmer. If a lease be cancelled for any cause other than a breach on the part of the farmer of the conditions to the lease, or if any reservation or restriction with respect of the grant of licenses be imposed within the period of the lease, the farmer shall be entitled to receive such compensation for any loss which he may sustain thereby as the Board of Revenue shall think just and proper.

Recovery of arrears of tax or duty from or by farmers

LXXXIV. The provisions of Section XLIII. of this Act shall be applicable to any arrear that may be due from any farmer of Abkaree Revenue ; and every such farmer shall be authorized and empowered to use the same means and processes for the recovery of any arrear of tax or duty due to him from any authorized vendor, which may be lawfully used by zemindars and farmers of land for the recovery of arrears of rent due to them from their under-tenants.

Rules respecting the manufacture and sale of spirits, &c., in Military Cantonments.

LXXXV. Within the limits of any Military Cantonment and within a circle drawn at a distance of two miles, or such other distance as may in any case be prescribed by Government, from such limits, licenses for the manufacture of spirits and for the sale of spirituous and fermented liquors shall not be granted, nor shall the duties leviable upon such spirits and liquors be let in farm, otherwise than with the knowledge and consent of the Commanding Officer : and upon the requisition of such Officer, any license which may have been granted, either by the Collector or by a farmer within such circle or limits, shall be immediately withdrawn.

Mode of making arrest or search within Military Cantonments

LXXXVI. In all other respects, the foregoing provisions of this Act shall have full force and effect within such circle and limits as aforesaid. Provided, however, that, when arrest or search is to be made within the limits of any Cantonment, the Collector or other officer authorized under this Act to make arrest or search shall, whenever it may be practicable, give previous notice to the Commanding Officer, and in all other cases shall report the arrest or search to such Commanding Officer with as little delay as possible. Provided

also, that nothing herein contained shall affect or interfere with the provisions of Act XVII. of 1853.

LXXXVII. In the districts in which the poppy is cultivated on account of Government, the Deputy Opium Agents and Sub-deputy Agents shall exercise the powers vested by this Act in Collectors, so far as the same relate to the suppression of illegal dealings in opium ; and the officers of the Opium Department shall exercise the powers vested by this Act in Abkaree officers for the seizure of illicit opium and the arrest of persons found in possession thereof, and, in respect to such seizures and arrests, shall be held and deemed to be Abkaree officers within the meaning of this Act.

Powers vested
in officers of the
Opium Department.

LXXXVIII. Nothing in this Act relating to the grant of licenses for the sale of spirituous and fermented liquors, and intoxicating drugs, and the recovery of arrears of tax or duty due under such licenses, to the illicit sale, carrying, or possession of spirituous and fermented liquors and intoxicating drugs, and the penalties incurred thereby, and to the appointment, duties, and responsibilities of Abkaree officers, shall extend to the Town of Calcutta ; but, with respect to all such matters, the provisions of Act XI. of 1849 shall continue in full force and effect, as if this Act had not been passed.

Provisions not
applicable to the
Town of Cal-
cutta.

LXXXIX. This Act shall commence and have effect from and after the first day of February 1857.

Commence-
ment of Act

XC. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction :—

Construction.

The word “Government” shall mean the Lieutenant-Governors of Bengal or the North-Western Provinces.

The expression “Board of Revenue” shall mean the Board of Revenue in Calcutta and the Sudder Board of Revenue at Agra.

The word “Commissioner” shall mean the Commissioner of a Revenue Division, or a Commissioner of Abkaree.

The word "Collector" shall include a Deputy Collector, or other Revenue officer in independent charge of a district, and a Superintendent of Abkaree Revenue.

The word "Magistrate" shall include a Joint Magistrate, or other person lawfully exercising the powers of a Magistrate, and any Assistant or Deputy Magistrate with special powers, stationed at a place other than the sudder station of the Magistrate and empowered to try cases without reference from the Magistrate.

The expression "Country spirit" shall mean any spirit made by the native process of distillation.

The expression "Intoxicating drugs" shall include ganjah, bhang, churru, and opium, and every preparation and admixture of the same.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

FORM OF BOND UNDER SECTIONS XI. AND XVI.

Know all men by these presents, That we are jointly and severally held and firmly bound unto the East India Company, in the sum of Company's Rupees

to be paid to the said East India Company; for which payment well and truly to be made, we jointly and severally bind ourselves, and each of us binds himself and each and every one of our respective heirs, administrators, and representatives by these presents,

Scaled with our seals.

Dated this day of

18 .

Whereas the above bounden are justly and truly indebted to the East India Company in the sum of Company's Rupees being the amount of

duty payable to the East India Company, at the rate of one Rupee per imperial gallon London-proof, for gallons of

[or for gallons of proof spirit used in

the preparation of *dozens of bottles or*
gallons of cordials and liquors as specified in the annexed
Schedule] manufactured at which the said

has been allowed to remove thence for exportation by sea subject to the provisions of Act XXI. of 1856 without having paid the amount of such duty. Now the condition of the obligation is such that, if the above-bounden

his or their heirs, executors, administrators, or representatives, or some or one of them, do and shall, at the expiration of four calendar months from the date of this obligation, well and truly pay or cause to be paid to the said East India Company duty at the rate of one Rupee per imperial gallon of proof spirit for all or any portion of the above-mentioned which shall not have been then exported by sea, subject to the aforesaid provisions (of which exportation, if any, due proof shall be given) or passed for local consumption on payment of duty, then this obligation to be void, otherwise to remain in full force and virtue.

Sealed and delivered
in the presence of

(If the bond be for cordials and other liquors under Section
XVI, add)

SCHEDULE.

Description of Cordials and Liqueurs.	Quantity in bottles or gallons.	Quantity of proof spirit.

ACT No. XXII OF 1856.

1. *Tolls may be levied on the Kurratiya.*
2. *But not till measures have been taken for improving the navigation.*
3. *Boats, &c, may be detained and sold for non-payment of toll.*
4. *Penalty for unlawful detention.*
5. *Government may authorize any person to carry out objects of Act.*
6. *And may make a grant of the tolls.*

An Act for establishing a Toll on Boats and Timber passing through the Kurratiya river in the district of Bogra.

WHEREAS it is expedient, with a view to afford facilities for the internal commerce of the Districts of Dinagpore, Rungpore, and Bogra, to adopt measures for the improvement of the navigation of that part of the Kurratiya river, which lies within the district of Bogra, and whereas any measure which may be adopted for this purpose will necessarily occasion a considerable outlay at the first, and an annual expense thereafter, and it is just and reasonable that, to defray the same, a moderate toll should be levied on all boats, timber, rafts, and floats passing through or within such part of the said river; and whereas it is expedient to encourage individual enterprise, and the employment of private capital on works of public utility: It is enacted as follows:—

Tolls may be
levied on the
Kurratiya.

I. Tolls, at the rates specified in the Schedule annexed to this Act, may be levied on all boats, timber, rafts, and floats, passing through or within the aforesaid part of the Kurratiya river, at such stations or places as the Lieutenant-Governor of Bengal may from time to time appoint. The said tolls shall be levied by such persons, and under such rules, as the said Lieutenant-Governor may direct; and all such rules shall be duly notified in the English and Vernacular *Gazettes* for public information.

But not till
measures have
been taken for

II. Provided, that no such toll shall be levied until the Lieutenant-Governor of Bengal shall be satisfied, by the

report of a competent person, that effective measures have been taken to render the passage through the said part of the Kurratiya river navigable throughout the year. Provided also, that the levy of the said tolls shall be continued only so long as the passage is kept so navigable.

improving the navigation.

III. Any person duly appointed or authorized to collect the said tolls may detain any boat, timber, raft, or float, for which the toll chargeable under this Act is not paid; and, on the report of such person, which report shall be made within twenty-four hours, the Deputy Collector of Bogra, or other public officer duly authorized by Government in that behalf, may publish a notice appointing a day for the sale of the same. At or after the time appointed by the notice, which shall not be less than fifteen days from the date of the publication thereof, if the toll be not paid, or sufficient cause for non-payment be not shown to the satisfaction of the Deputy Collector or other officer as aforesaid, such officer may sell the thing detained, or, in the case of a boat, such part of the tackle or lading thereof, or, in the case of a raft or float, such part of the same as may be necessary for the recovery of the toll, and shall pay the over-plus, if any, to the owner on demand.

Boats, &c, may be detained and sold for non payment of toll.

IV. Any person who, under color of this Act, shall unlawfully detain any boat, timber, raft, or float, or shall neglect, or without lawful excuse delay, to report the detention of any boat, timber, raft, or float, to the Deputy Collector or other officer as aforesaid, or shall demand or receive as toll any larger sum than is authorized by the Schedule annexed to this Act, shall, on conviction before a Magistrate, or other officer exercising the powers of Magistrate, forfeit a sum not exceeding two hundred Rupees.

Penalty for unlawful detention.

V. For the purpose of carrying out the objects of this Act, the Lieutenant-Governor of Bengal may authorize any public officer to cut any canal, clear and deepen any channel, stop any water-course, or take any other measure which may be judged necessary for making the river navigable as aforesaid,

Government may authorize any person to carry out objects of Act.

or may grant the like authority to any private person who may undertake to carry out those objects at his own expense ; and may take possession, as for a public purpose, of any land that may be necessary for the execution of any of the above-mentioned works, under the provisions of Regulation I. of 1824, or of any Act that may hereafter be in force for taking possession of land for public purposes, whether the said works are to be executed at the expense of Government, or of such private person as aforesaid.

And may make
a grant of the
tolls.

VI. If the Lieutenant-Governor shall grant authority to any private person to carry out the objects of this Act at his own expense, he may also make a grant of the said tolls to such person upon such conditions and for such a term as to the said Lieutenant-Governor shall appear just and proper, and may authorize such person, or any person or persons employed by him, to collect the said tolls.

SCHEDULE

Of tolls chargeable on boats, timbers, rafts, and floats, passing into or through the Kurratiya river within the district of Bogra.

Budgerows, Bauleahs, and

other Boats for per-

sonal accommodation... 4 annas per oar.

Boats of burthen, empty... At the rate of 2 annas per 100
mds. burthen.

Ditto Ditto laden with

bricks, tiles, and earthen-

ware ; straw, grass,

reeds, and fire-wood ;

fruit and vegetables... At the rate of 4 annas per 100
mds. burthen.

Ditto Ditto with grain,

pulse, seeds, and any

other article not

expressly enumerated... At the rate of 12 annas per 100
mds. burthen.

Timbers in rafts or otherwise, not being in boats, 2 annas each timber.

Bamboos in floats, 4 annas per 100 bamboos. .

Every boat less than 50 maunds burthen shall be rated as 25 maunds,—every boat of 50 maunds and less than 75 maunds shall be rated as 50 maunds,—every boat of 75 maunds and less than 100 maunds shall be rated as 75 maunds,—every boat of 100 maunds and less than 125 maunds shall be rated as 100 maunds, and so on. .

Any number of bamboos less than an even hundred shall be rated as 100.

Act No. XXIII of 1856, repealed by Act XXXIX., 1858.

ACT NO. XXIV. OF 1856.

1. *Supreme Court, on petition, may make order for dissolving the Society and winding up the affairs of the Fund.*

2. *Employment of Accountant or Actuary.*

3. *Court may order payment to persons consenting to commute their pensions.*

4. *A sufficient sum to be set apart for payment of uncommuted pensions.*

5. *Guardians of minors.*

6. *Application, for the benefit of pensioners, of funds not awarded to members, or representatives of deceased members.*

7. *Court may order payment of dividend out of probable surplus.*

8. *Proceedings for bringing in claimants.*

An Act to provide for the dissolution of the Bengal Mariners' and General Widows' Fund Society, and the distribution of the funds belonging thereto. .

WHEREAS, by articles of agreement, dated the 12th day of May 1820, a Society was established for raising a Fund called "The Bengal Mariners' and General Widows' Fund," the interest, dividends, and proceeds of which Fund are thereby directed to be applied in making provision at certain specified rates for the widows and children of the subscribers or their nominees; and it is thereby declared that such provision shall be made solely out of the interest and dividends

of the said Fund : and whereas a petition has been presented to the Legislative Council by certain Directors, Members, and Beneficiaries of the Society, stating that the said interest, dividends, and proceeds have for many years been insufficient to make the provision intended by the articles of agreement, and that the reduction of the pensions is so great as to amount to a disappointment of the expectations of the founders of the Fund, and virtually a failure to accomplish the object of the Fund ; and praying that an Act may be passed to wind up the affairs of the said Society ; and whereas no provision is made in the deed for the dissolution of the said Society and the distribution of the Funds belonging thereto, and it is expedient to make provision for the same by law : It is enacted as follows:—

Supreme Court, on petition, may make order for dissolving the Society and winding up the affairs of the Fund.

I. On the petition to the Supreme Court of Judicature at Fort William in Bengal, of a majority of the Directors of the said Bengal Mariners' and General Widows' Fund, or of any ten Members of the Society and Pensionaries on the said Fund, praying for the dissolution of the said Society, and the winding up of the affairs of the said Fund, it shall be lawful for the said Supreme Court to make order for the same on the said petition, as fully as if the petitioners proceeded by Information or Bill, and as if there were parties defendants ; and as fully as if the Deed of the said Society provided for the winding up of the said Fund : and it shall be lawful for the said Court to make order for ascertaining and declaring the rights which attach on the said Fund, and for taking the accounts of the said Fund, and for the apportionment, division, and distribution of the said Fund ; and for the ascertainment of the nature and number of the different claims on the said Fund, and of the persons having or entitled to make the said claims ; and for the payment of the proper costs of the Directors of the said Society, and of all parties conducting or otherwise concerned in the matter of the said petition and subsequent proceedings for winding up the said Fund.

Employment of Accountant or Actuary.

II. It shall be lawful for the Court, in such way as they may think fit, to obtain the assistance of an Accountant or

Actuary the better to enable the Court to determine any matter relating to the division and distribution of the Fund, and to act upon the certificate of such person; and in case it shall be deemed necessary to make any reference to the Master in Equity of the said Court in the matter of such petition, it shall be lawful for the said Court to order that the Master in Equity shall be at liberty in like manner to obtain the assistance of an Accountant or Actuary.

III. In the cases of pensioners or persons entitled to become pensioners who shall consent to commute their pensions, it shall be lawful for the Court to order that the amounts to be paid in commutation shall be settled, invested, or paid, in such manner as will give the several persons therein interested the full benefit thereof.

Court may order payment to persons consenting to commute their pensions.

IV. In the cases of pensioners or persons entitled to become pensioners, who shall refuse to commute their pensions, it shall be lawful for the Court to order a sufficient sum to be set apart out of the said Fund to provide for the due payment of such pensions. The said Court may also sanction and give effect to any arrangement which it may deem just and sufficient for the future payment of any commuted sum or uncommuted pensions, by any Life Insurance Company willing to undertake the payment of such pensions.

A sufficient sum to be set apart for payment of uncommuted pensions.

V. The guardians of minors pensioners, and of minors, if any, entitled to become pensioners on the said Fund, shall have full power and authority to consent on their behalf to commute the pensions of the minors for a fixed sum; and the said Court shall have full power and authority to give effect to such consent, and to make such order as the said Court may deem just for the application of the said commuted sum for the future benefit of the infant; and if there be no guardian, the mother, during her widowhood, may act as guardian, unless the Court shall otherwise order; and if necessary, the Court may appoint a guardian for any minor.

Guardians of minors

VI. In dividing and distributing the funds of the Society, every part thereof which shall not be awarded by the Court to members or representatives of deceased mem-

Application, for the benefit of pensioners, of funds not awarded to members, or representa-

tives of deceased
members

bers, may, if the Court shall think fit, be applied for the benefit of pensioners or persons entitled to become pensioners, whether they shall consent to commute their interests or not.

Court may or-
der payment of
dividend out of
probable sur-
plus.

VII. With a view to expedite the distribution of the surplus of the said Fund, over and above what may probably be necessary to provide for the pensions, the said Court shall have full power and authority at any time to order payment of a dividend of the said probable surplus, to the persons entitled to the same, although the exact surplus and the exact amount of charges may not then be ascertained.

Proceedings for
bringing
claimants in

VIII. For the purpose of winding up the said Fund, and finally closing the accounts thereof, the like proceedings shall be had for the bringing in of claimants on the said Fund, as in ordinary administration suits for bringing in creditors and other persons; and claimants being pensioners or entitled to be pensioners, who may neglect to come in, in a due course or within the time limited for that purpose, shall be deemed to have consented to commute their pensions; and a final distribution may be made of the said Fund.

ACT NO. XXV. OF 1856.

1. *Application of Act.*
2. *Appointment of officers.*
3. *Assessment upon annual value of property.*
4. *Annual value how to be ascertained.*
5. *Valuation to be made and entered in a book.*
6. *Description of owner or occupier, if name unknown.*
7. *Returns may be required for purpose of valuation. Power to enter houses, &c.*
8. *Public notice of valuation to be given.*
9. *Notice of time of revising assessment.*
10. *After revision, assessment book to be signed. Rate assessed to be deemed the rate for the whole year.*
11. *Alteration or amendment of assessment.*
12. *New assessment book need not be prepared yearly. Proviso.*
13. *Taxes upon vehicles and animals.*
14. *List of persons liable to the tax to be entered in a book.*
15. *Returns may be required for purpose of making list.*

16. *Power to summon persons liable to the payment of the taxes.*
17. *Hearing of appeals.*
18. *Time of appeal.*
19. *Assessment by Commissioners when to be final*
20. *Form of bill to be presented.*
21. *Notice of demand. Distress.*
22. *Inventory—notice of distress.*
23. *Sale. Fees.*
24. *Goods of defaulter, wherever found, may be distrained.*
25. *Rate due from owner may be recovered from occupier and deducted by him from his rent.*
26. *Distress not unlawful for want of form.*
27. *Commissioners may sue instead of proceeding by distress.*
28. *Service of notices. Proviso.*
29. *Assessment not to be impeached, if the directions of the Act are in substance complied with.*
30. *Obstruction of Commissioners or their servants.*
31. *Penalty on officer taking fees or being interested in contracts.*
32. *No action to be brought against Commissioners or their officers, until after one month's notice of cause of action.*
33. *Commissioners to publish annual statements. Audit of accounts.*
34. *Summary of convictions to be furnished to the Commissioners.*
35. *Mortgage of rates.*
36. *Interpretation.*

An Act to comprise in one Act the provisions necessary for the assessment and collection of Municipal Rates and Taxes in the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Whereas it is expedient to comprise in one Act the provisions necessary for the assessment and collection of certain Rates and Taxes to be imposed by special Acts for the Towns of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca, for raising funds for Municipal purposes; It is enacted as follows:—

I. The provisions of this Act, save so far as they may be expressly varied or excepted by the special Act for any of the said Towns or for the said Settlement, shall apply to the assessment and collection of the rates and taxes imposed by

**Application of
Act.**

such special Act, and to the Commissioners appointed thereby for the conservancy and improvement of such Town or of any station of the said Settlement ; and such special Act and such provisions of this Act as shall not be expressly varied or excepted by the special Act, shall be construed together as forming one Act.

Appointment
of Officers.

II. The Commissioners may from time to time appoint such officers as they shall think necessary and proper to assist in the execution of this and the special Act, and may from time to time remove any of such officers, and appoint others in their places, and may, with the sanction of the local Government, pay such salaries and allowances to the said officers respectively as the Commissioners shall think reasonable. Provided, that no person shall be appointed to or removed from any office, the monthly salary of which exceeds two hundred Rupees, without the sanction of the Local Government.

Assessment
upon annual
value of pro-
perty.

III. The rate or rates imposed upon houses, buildings, and lands according to the annual value thereof in any of the said Towns or in the said Settlement by the special Act shall be assessed in the manner hereinafter provided.

Annual value
how to be ascer-
tained

IV. The estimated gross annual rent at which the houses, buildings, and lands liable to the rate might reasonably be expected to let from year to year shall, for the purposes of the rate, be held and deemed to be the annual value of such houses, buildings, and lands. The value of a house or building so estimated shall not include the value of any machinery contained therein.

Valuation to
be made and
entered in a
book

V. For the purpose of such assessment as aforesaid, the Commissioners shall from year to year cause a valuation to be made of all houses, buildings, and lands liable to the rate. Such valuation, estimated as is hereinbefore provided, shall be entered in a book to be kept at the office of the Commissioners, wherein shall also be written in distinct columns the name of the owner of the property ; or, if the occupier, and not the owner, is the person liable to pay the rate, the name of the occupier ; a designation of the property either

by name or number sufficient to identify the same, together with the name of the street or district in which such property is situate, and the amount of the rate assessed thereon.

VI. When the name of the owner or occupier is not known, it shall be sufficient to designate him in the said book, and also in any notice or other proceeding under this Act, as "the owner" or "the occupier" of the property on which the rate is assessed without further description:

Description of owner or occupier, if name unknown.

VII. In order to enable the Commissioners to arrive at a fair valuation of any houses, buildings, or lands liable to the rate, it shall be lawful for the Commissioners to require the owner or occupier of such houses, buildings, or lands to furnish them with returns of the rent or annual value thereof; and for the like purpose, it shall be lawful for the Commissioners, or any person or persons appointed by them for that purpose, at any time to enter and inspect such houses, buildings, or lands, after having given forty-eight hours' previous notice of such their intention to the occupier thereof; and whoever refuses or fails to furnish any such returns for the space of one week from the day on which he shall have been required so to do, or knowingly makes a false or incorrect return; and whoever hinders, obstructs, or prevents any one of the Commissioners, or any person appointed by them as aforesaid, from entering or inspecting any such houses, buildings, or lands, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.

Returns may be required for purpose of valuation. Power to enter houses, &c.

VIII. When the valuation has been completed, the Commissioners shall give public notice thereof, and of the place where the said book containing the valuation and the rate assessed, or a copy of the said book, may be inspected in the *Government Gazette* (if any), and by advertisement in some newspaper circulating within the town or station, and also by placards posted up in conspicuous places throughout the same; and the person in whose custody such book may be shall permit every person claiming to be the owner or occupier of property included in the assessment, or the agent

Public notice of valuation to be given.

of such owner or occupier, to inspect the book and to make extracts therefrom without payment of any fee; and any such person who wilfully neglects or refuses to permit the same shall be liable, on conviction before a Magistrate, to a penalty of fifty Rupees.

Notice of time
of revising as-
sessment.

IX. The Commissioners shall, at the time and in the manner in the preceding Section mentioned, give public notice of a day, not being less than fifteen days from the publication of such notice, when they will proceed to revise the said valuation and assessment; and, in all cases in which any property is for the first time assessed or in which the valuation of any property previously assessed is increased, shall give special notice thereof to the owners or occupiers of such property. All complaints against such valuation and assessment shall be made on or before the day fixed in the notice; and all complaints so made shall be enquired into by the Commissioners, and such amendments shall thereupon be made in the said book as to the Commissioners shall appear just and proper.

After revision,
assessment book
to be signed. Rate
assessed to be
deemed the rate
for the whole
year.

X. After the complaints have been enquired into and after the revision of the valuation and assessment has been completed, the amendments made in the said book shall be authenticated by the signatures of two of the Commissioners, who shall at the same time certify under their signatures that no valid objection has been made to the valuation and assessment in the said book entered, except in the cases in which amendments have been made as shown therein; and thereupon, and subject to such alterations and amendments as may thereafter be duly made, the rate so assessed shall be deemed to be the rate for the whole year in and for which the assessment is made, and such year shall commence on the 1st day of January.

Alteration
amendment
assessment.
or
of

XI. Provided always, that the Commissioners, upon the representation of parties or other information, may at any time amend the said book by inserting therein the name of any person whose name ought to be so inserted, or any pro-

erty liable to the rate ; or by striking out the name of any person or any property not liable to the rate, or by reducing the amount of the rate : and in all cases in which any property is inserted as liable to the rate, the amendment shall be considered to have been made at the time when the person interested first received notice thereof.

XII. It shall not be necessary to prepare a new book every year, but the Commissioners may adopt the valuation and assessment contained in the book for the preceding year, with such alterations as may in particular cases be deemed necessary, as the valuation and assessment for the year following. Provided always, that public notice of such valuation and assessment shall be given in the manner prescribed in Section VIII. of this Act ; and the provisions of the said Section and of the three following Sections shall be applicable to the said valuation and assessment, and to the book or books in which it is contained.

New assessment book need not be prepared yearly.

Proviso.

XIII. The taxes imposed upon vehicles and animals in any of the said Towns or in the said settlement by the special Act, shall be assessed in the manner hereinafter provided.

Taxes upon vehicles and animals.

XIV. The Commissioners shall, from time to time, cause to be prepared and entered in distinct columns in a book to be kept at the Office of the Commissioners and to be open to the inspection of any person interested therein, a list of the persons liable to the payment of such taxes, a description of the vehicles and animals in respect of which they are liable, and the amount of the taxes assessed thereon.

List of persons liable to be entered in a book.

XV. In order to enable the Commissioners to make such list, the Commissioners, or any officer authorized by them, may send to all persons supposed to be liable to the payment of such taxes a schedule to be filled up with such information respecting the vehicles and animals kept by them as the Commissioners may judge necessary for the assessment of the taxes. The schedule shall be filled up in writing and signed, and dated, and returned to the office of the Commissioners by every person to whom it is sent, whether or

Returns may be required for purpose of list.

not liable to the payment of such taxes ; and whoever refuses, neglects, or omits, duly to fill up and return such schedule within one week from the receipt thereof, or knowingly gives therein any incorrect or false return, shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.

Power to summon persons liable to payment of taxes.

XVI. The Commissioners may summon any person supposed to be liable to the payment of such taxes, or any servant of such person, and may examine such person or his servant as to the number and description of the horses and carriages in respect of which such person is liable to be assessed. If the person summoned shall, without lawful excuse, fail to appear in pursuance of the summons, or shall refuse to answer any lawful question of the Commissioners, or knowingly give an incorrect answer, he shall be liable, on conviction before a Magistrate, to a penalty not exceeding two hundred Rupees.

Hearing of appeals.

XVII. Appeals against any rate or tax assessed under the provisions of this or the special Act, shall be heard and determined, in the Towns of Calcutta and Madras by two Magistrates, in the Town of Bombay by the Court of Petty Sessions, and in the said Settlement by Her Majesty's Court of Judicature. But no such appeal shall be heard unless the amount of the rate or tax has been deposited with the Commissioners ; and no appeal against a rate assessed by the Commissioners under Section X. shall be heard, unless complaint has been previously made to the Commissioners as hereinbefore provided. The mode of proceeding in such appeals shall be the same as that prescribed for the determination of matters referred to two Magistrates by Act XIV. of 1856, or as near thereto as may be. Provided that such Magistrates, and such Court of Petty Sessions, may, if they shall think fit, state a case for the opinion of the Supreme Court.

Time of appeal.

XVIII. Every such appeal shall be commenced within ten days after the accrual of the cause of complaint ; which shall, in respect of any rate, be deemed to accrue on the date of the certificate of the Commissioners in the said book, or,

in case of any subsequent amendment of the said book under the provisions of Section XI., upon the receipt by the person aggrieved of notice of such amendment; and in respect of any tax, the cause of complaint shall be deemed to accrue upon the receipt by the person aggrieved of a bill for the sum claimed from him.

XIX. The assessment by the Commissioners of any rate or tax, when no appeal therefrom is made as hereinafter provided, and the adjudication of any appeal under Section XVII., shall be final and conclusive.

**Assessment
when to be final.**

XX. When any rate or tax is due, the Commissioners shall cause to be presented to the person liable to the payment thereof a bill for the sum due, which shall also contain a statement of the period and a description of the property or thing for which the rate or tax is charged. If the bill be for any tax, it shall also contain a notice of the time within which an appeal against such tax may be preferred.

**Form of bill to
be presented.**

XXI. If the bill is not paid by the person liable to pay the same within five days from the presentation thereof, the Commissioners may cause to be served upon such person a notice of demand in the form (A) contained in the Schedule to this Act, or to the like effect; and if he shall not, within five days from the service of such notice of demand, pay the sum due, or show sufficient cause for non-payment of the same to the satisfaction of the Commissioners, and if no appeal shall have been preferred, such sum with all costs may be levied by distress and sale of the goods and chattels of the defaulter, or if the defaulter be the occupier of any house, building, or land in respect of which a rate is due, by distress and sale of any goods and chattels found on the premises, under a warrant in the form (B) in the schedule, or to the like effect, to be issued for that purpose by the Commissioners.

**Notice of de-
mand. Distress.**

XXII. The officer charged with the execution of the warrant of distress shall make an inventory of the goods and chattels seized under any such warrant, and shall at the

**Inventory—no-
tice of distress.**

same time give a notice in writing, in the form (C) contained in the Schedule annexed to this Act, to the person in possession thereof at the time of the seizure, that the said goods and chattels will be sold as therein mentioned.

Sale. Fees.

XXIII. If the warrant is not in the meantime discharged or suspended by the Commissioners, the goods and chattels seized shall be sold under the orders of the Commissioners, who shall apply the proceeds, or such part thereof as may be necessary, in discharge of the said arrears and costs; and the surplus, if any, shall be returned on demand to the person in possession of the goods and chattels at the time of the seizure. The fees payable upon distraints under this Act shall be such as are set forth in the table of fees in the said Schedule.

Goods of default-
ter, wherever
found, may be
distrainted.

XXIV. The goods and chattels of any person from whom any rate or tax is due may be distrainted, wherever the same may be found, for default in the payment of the money due from such person.

Rate due from
owner may be re-
covered from oc-
cupier, and de-
ducted by him
from his rent.

XXV. If the sum due on account of any rate from the owner of any house, building, or land, remains unpaid, after notice of demand has been duly served, the Commissioners may demand the amount from the occupier for the time being of such house, building, or land, and on non-payment thereof, may recover the same by distress and sale of any goods and chattels found on the premises; and, in such case, the occupier may deduct from the next and following payments of his rent the amount which may be so paid by or recovered from him. Provided, that no arrear of rate which has remained due from the owner of any house, building, or land, for more than one year, shall be so recovered from the occupier thereof.

Distress not un-
lawful for want
of form.

XXVI. No distress levied by virtue of this or the special Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser, on account of any defect or want of form in the notice, schedule, summons, notice of demand, warrant of distress, inventory, or other

proceeding relating thereto, nor shall such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him ; but all persons aggrieved by such irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

XXVII. Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of the sum due in respect of any rate or tax, the Commissioners may sue the person liable to pay the same in any Court of competent jurisdiction.

Commissioners
may use instead
of proceeding by
distress.

XXVIII. Every notice, schedule, summons, or notice of demand regarding any assessment, rate or tax, or any money due in respect of the same, may be served personally upon the person to whom the same is addressed, or be left at his usual place of abode with some adult male member or servant of his family, or, if it cannot be so served, may be put up on some conspicuous part of such place of abode, and shall thereby be deemed to be duly served. Provided that, if the place of abode of the owner of any house, building, or land in respect of which a rate is assessed be unknown, or if the owner of any such house, building, or land be not resident within the limits of the Town or Station, every such notice, summons, or notice of demand shall be deemed to be duly served, if put up on some conspicuous part of the house, building, or land in respect of which the rate is assessed.

Service of no-
tices.

Proviso.

XXIX. No assessment and no charge or demand of rate or tax, made under the authority of this or the special Act, shall be impeached or affected by reason of any mistake in the name of any person liable to pay the rate or tax, or in the description of any property or thing liable to rate or tax, or any mistake in the amount of assessment, provided the directions of this Act and of the special Act be in substance and effect complied with ; and no proceedings under this or the special Act shall be quashed or set aside for want of form in any Court of Justice.

Assessment not
to be impeached
if the Act is in
substance com-
plied with

Obstruction of Commissioners or their servants.

XXX. Whoever wilfully obstructs or molests the Commissioners, or any of them, or any of their officers or servants in the performance of their respective duties under this Act, shall be liable, on conviction before a Magistrate, to a penalty not exceeding fifty Rupees.

Penalty on officer taking fees or being interested in contracts.

XXXI. Every officer employed by the Commissioners to assist in the execution of this and the special Act, who accepts, or obtains, or attempts to obtain, any fee or gratuity whatsoever, other than his authorized salary or allowances, for doing or forbearing to do any official act; or who shall be in any wise concerned or interested in any bargain or contract made by the Commissioners, shall be removed from his office, and shall be incapable of being afterwards employed by the Commissioners, and shall be liable, on conviction before a Magistrate, to a penalty not exceeding five hundred Rupees.

No action to be brought against Commissioners or their officers, until after one month's notice of cause of action.

XXXII. No action shall be brought against the Commissioners, or any of their officers, or any person acting under the direction of the Commissioners, for any thing done or intended to be done under the powers of this or the special Act, until the expiration of one month next after notice in writing shall have been delivered or left at the office of the Commissioners, or at the place of abode of such person, explicitly stating the cause of action, and the name and place of abode of the intended plaintiff, and of his attorney or agent in the cause; and upon the trial of any such action, the plaintiff shall not be permitted to go into evidence of any cause of action, except such as is stated in the notice so delivered; and unless such notice be proved, the Court shall find for the defendant; and every such action shall be commenced within three months next after the accrual of the cause of action, and not afterwards; and if any person to whom any such notice of action is given shall, before action brought, tender sufficient amends to the plaintiff, such plaintiff shall not recover in any such action when brought; and if no such tender shall have been made, it shall be lawful for the defendant in such action, by leave of the Court where

such action shall be pending, at any time before issue joined, to pay into Court such sum of money as he shall think fit, and thereupon such proceedings shall be had as in other cases where defendants are allowed to pay money into Court.

XXXIII. The Commissioners shall, as soon after the first day of January in every year as may be practicable, prepare a detailed statement showing the nature and amount of the receipts and disbursements on account of the Municipal Fund for the past year, and also a report of their proceedings during that year; and such statement and report shall be printed and published for general information. The accounts of the said funds shall be audited annually by such person as the Local Government shall appoint.

Commissioners
to publish annual
statements. Au-
dit of accounts.

XXXIV. For better enabling the Commissioners to ascertain the amount of fines and penalties payable to them on account of the Municipal Fund under the provisions of Act XIV. of 1856, or of the special Act, or of any other law, there shall, in every month, be furnished to them by the authority adjudicating the same, a summary of all convictions under the said Acts, or under any such other law, during the preceding month.

Summary of
convictions to be
furnished to
Commissioners.

XXXV. It shall be lawful for the Commissioners, with the sanction of the Local Government, to borrow and take up at interest, on the credit of the rates and taxes imposed and levied on account of the Municipal Fund under the special Act or any other Act passed in that behalf, or of a portion of them, any sums of money necessary for defraying any expenses incurred or to be incurred by them in the execution of any such Act or of Act XIV. of 1856; and for the purpose of securing the re-payment of any sums so borrowed, together with such interest as aforesaid, the Commissioners may mortgage and assign over, to the person by or on behalf of whom such sums shall be advanced, the rates and taxes or the portion of them upon the credit of which such sums shall be borrowed. Provided always, that the money borrowed under the authority of this Act shall be borrowed only for works of a permanent nature, and shall not at any time

Mortgage of
rates.

exceed in the whole ten times the average annual sum received and collected on account of the Municipal Fund.

Interpretation. XXXVI. The following words and expressions in this and the special Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction:—

The word “Magistrate” shall mean any Magistrate of Police acting for the place where the matter requiring the cognizance of a Magistrate arises.

The word “Town” shall include all places within the local limits of the jurisdiction of Her Majesty’s Supreme Courts of Judicature at Calcutta, Madras, and Bombay.

The word “Station” shall mean any one of the Stations of Prince of Wales’ Island, Singapore, and Malacca, and the dependencies thereof.

The word “Owner” shall mean the person for the time being receiving the rent of the land or premises in connexion with which the word is used, whether on his own account or as agent or trustee for any other person, or who would so receive the same if such land or premises were let to a tenant.

Words importing the singular number shall include the plural number; and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

The word “Person” shall include a corporation.

SCHEDULE.

A.

NOTICE OF DEMAND.

TAKE notice that the Municipal Commissioners demand from you the sum of _____ due from* [you] as owner (or occupier) (here describe the property or thing _____)

* In the case of a demand under Section XXV., state that notice of demand has been served upon the owner, and that the sum due remains unpaid.

upon which the rate or tax is imposed) for the months of 185 ; and that, if the sum due is not paid into the said Commissioners' Office at, or if sufficient cause for the non-payment of the sum is not shown to the Commissioners, within five days from the service of this notice, a warrant of distress will be issued for the recovery of the same with costs.

*(Signature of one of the
Municipal Commissioners)*

Date_____

B.

DISTRESS WARRANT.

To (here insert the name of the Officer charged with the execution of the warrant.

WHEREAS _____ of _____ has not paid or shown sufficient cause for the non-payment of the sum of _____ Rupees due for the rates (~~or taxes~~) (*or rates and taxes*) mentioned in the margin for the months of (_____) 185 , although the said sum has been duly demanded in writing from the said _____ and five days have elapsed since the service of the notice of demand ; This is to command you to distrain the goods and chattels of the said _____

(or as the case may be, any goods and chattels found on the premises referred to) to the amount of the said sum of _____ Rupees, and such further sum as may be sufficient to defray the charges of taking, keeping, and selling such distress ; and if, within five days next after such distress, the said sum shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such distress, to sell the said goods and chattels ; and having paid and deducted out of the proceeds of the sale the said sum of _____ Rupees, and the charges of taking, keeping, and selling such distress, to return the surplus, if any, on demand, to the person whom you shall find in possession of the

said goods and chattels. If sufficient distress cannot be found of the goods and chattels of the said

you are to certify the same to us together with this warrant.

(L. S.) *The Municipal Commissioners*
And signature of one of the Municipal
Commissioners.

C.

FORM OF INVENTORY AND NOTICE.

(State particulars of Goods seized.)

TAKE notice that I have this day seized the goods and chattels specified in the above inventory for the sum of

Rupees due for the rates (or taxes) mentioned in the margin for the months of

185 ; and that, unless you pay into the Office of the Municipal Commissioners the amount due, together with the costs of this distress within five days from the day of the date of this notice, the goods and chattels will be sold.

(Signature of the Officer executing
the warrant of distress.)

Date _____

Table of Fees payable in distraints under this Act.

Sum Distrained for.		Fee.	
		Rs.	As.
Under 5 Rupees,	...	0	8
5 and under 10 Rupees,	...	1	0
10 "	15 "	1	8
15 "	20 "	2	0
20 "	25 "	2	8
25 "	30 "	3	0
30 "	35 "	3	8
35 "	40 "	4	0
40 "	45 "	4	8
45 "	50 "	5	0
50 "	60 "	6	0
60 "	80 "	7	8
80 "	100 "	9	0
Above 100	"	10	0

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case four annas must be paid daily for each man.

ACT No. XXVI. OF 1856.

1. *Acts repealed.*
2. *Present assessment to remain in force until revised.*
3. *Act XXV. of 1856 incorporated. Construction.*
4. *Number, appointment, and removal of Commissioners.*
5. *President.*
6. *Commissioners incorporated.*
7. *Meetings of Commissioners.*
8. *Pay of Commissioners.*
9. *Rate on houses, buildings, and lands.*
10. *Mode of assessing rate.*
11. *Exemption of Fort St. George and of certain public buildings.*
12. *Power to exempt small holdings.*
13. *Remission on account of vacant Houses.*
14. *Tax on vehicles and animals.*
15. *Exemption of certain vehicles and animals.*
16. *What will constitute liability to the tax for a whole quarter.*

Transfer of ownership.

17. *Remission of tax on carriages under repair.*
18. *Commissioners may compound with livery stable-keepers and others.*
19. *Registry and numbering of hired carriages.*
20. *Penalty for not registering.*
21. *Penalty for using upon Town roads, carriage, &c, not entered in Schedule.*
22. *Remission of tax if private carriage is not used.*
23. *Service of notices, &c.*
24. *Persons residing beyond three miles not liable for temporary use of Town roads.*
25. *Municipal Fund.*
26. *Certain fines to be paid to the Municipal Fund.*
27. *Commencement of Act.*

AN Act for appointing Municipal Commissioners, and for levying rates and taxes in the Town of Madras.

WHEREAS the provisions contained in Statute 33 Geo. III, c. 52, s. 158. and Act XXII. of 1841 of the Government of India, for making and levying an assessment on houses, buildings, and grounds in the Town of Madras, and for dis-

posing of the money thereby raised for certain Municipal purposes, are defective and insufficient, and it is expedient to provide more ample funds for the conservancy and improvement of the said Town, and to constitute Commissioners for raising and administering such funds : It is enacted as follows :—

Acts repealed

1. The 158th Section of the Act of Parliament 33 Geo. III., c. 52, Act XXVIII. of 1836, and Act XXII. of 1841 of the Government of India, are repealed, except as to any assessment which shall be unpaid, and as to any proceeding for the recovery of the same which shall have been commenced before this Act shall come into operation.

Present assessment to remain in force until revised.

II. The assessment on houses, buildings, and grounds, payable under the Statute 33 Geo. III., c. 52, s. 158, and Act. XXII. of 1841, shall, until revised and altered under the provisions of this Act, remain in full force and effect, and shall be levied and recovered as a rate payable under this Act.

Act XXV. of 1856 incorporated. Construction.

III. Act XXV. of 1856, entitled "An Act to comprise in one Act the provisions necessary for the assessment and collection of Municipal rates and taxes in the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca," is incorporated with this Act ; and in construing the said Act as incorporated with this Act, the expression "the special Act" shall mean this Act, the expression "the Commissioners" shall mean the Municipal Commissioners constituted by this Act, and the expression "the Local Government" shall mean the Governor in Council of the Presidency of Fort St. George.

Number, appointment, and removal of Commissioners.

IV. There shall be three Commissioners for the purposes of this Act, and for the conservancy and improvement of the Town of Madras under Act XIV. of 1856, who shall be appointed by the Governor in Council and shall be removable at his pleasure.

President.

V. The Governor in Council shall appoint one of the said Commissioners to be President of the Board of Commissioners.

VI. The Commissioners appointed under this Act shall be styled "The Municipal Commissioners for the Town of Madras," and shall by such name be a body corporate and have perpetual succession and a common seal, and by such name shall sue and be sued.

Commissioners
incorporated.

VII. The Municipal Commissioners shall meet once in every week at least. The attendance of two Commissioners shall be necessary to constitute a meeting. At a meeting of two Commissioners, on questions on which they are divided in opinion, if the President be one of them, his voice shall decide; otherwise the question shall be reserved for the decision of the three Commissioners.

Meetings of
Commissioners.

VIII. The Municipal Commissioners may receive such allowances out of the funds to be raised under this Act as shall be, from time to time, fixed by the Governor in Council. Provided, that the allowances for any Commissioner shall not exceed the rate of ten thousand Rupees a year, if the Commissioner holds no other appointment or occupation; or the rate of four thousand Rupees a year, if he holds any other appointment or occupation.

Pay of Commis-
sioners.

IX. Houses, buildings, and lands in the said Town shall be liable to an annual rate, to be fixed, from time to time, by the Governor in Council, not exceeding seven and a half per cent. of the annual value of the houses, buildings, and lands subject to the rate. The rate fixed by the Governor in Council shall be published, from time to time, in the *Government Gazette*.

Rate on houses,
buildings, and
lands.

X. The said rate shall be assessed for every year within the first quarter of the year, and shall be due and payable by the owners of the said houses, buildings, and lands, from and after the end of the said first quarter.

Mode of assess-
ing rate.

XI. Houses, buildings, and lands in Fort St. George, and any houses, buildings, and lands, without the Fort, occupied by Troops composing the Garrisons of Fort St. George, and buildings used exclusively as places of public worship, shall not be liable to the rate.

Exemption of
Fort St. George
and of certain
public buildings.

Power to
exempt small
holdings.

XII. The Commissioners may exempt from assessment any house, building, or land, the annual value whereof is less than fourteen Rupees, if the same be the sole rateable property of the owner.

Remission on
account of vacant
Houses.

XIII. When any house or building shall have been vacant for not less than sixty consecutive days during any year, the Commissioners shall remit so much of the rate for that year as may be proportionate to the number of days the said house or building may have remained unoccupied. Provided, that the owner of such house or building, or his agent, shall have given notice in writing of the vacancy thereof to the Commissioners, and that the amount of rate to be remitted shall be calculated from the date of the delivery of such notice.

Tax on vehicles
and animals.

XIV. A tax shall be imposed upon all carriages, carts, bandies, horses, ponies, and mules, kept within the said Town, and upon all carriages, carts, bandies, horses, ponies, and mules, used upon the roads of the said Town and kept at any place not more than three miles distant from the limits thereof, at the rates specified in the Schedule ; and shall be payable quarterly by the owners or persons in charge of the same.

Exemption of
certain vehicles
and animals.

XV. Provided that the several vehicles and animals hereinafter mentioned shall be exempt from the tax, namely—

Gun carriages and Ordnance carts and waggons.

Cavalry horses, and horses of the Mounted Police.

Horses belonging to Officers doing Regimental duty at the Presidency, at the rate of one horse for each Officer.

Conservancy carts, horses, ponies, and mules, belonging to the Commissioners.

Vehicles and animals kept for sale and not used for any other purpose, if kept by *bonâ fide* dealers in such vehicles and animals.

What to constitute
liability for
a whole quarter.

XVI. Every person, who may have owned or had charge of any vehicle or animal kept within the said Town for a period

exceeding thirty days in any quarter, shall be liable to the whole tax for that quarter. If the period do not exceed thirty days, no tax shall be chargeable for that quarter. Provided that, when any person owning or having charge of any vehicle or animal shall transfer the same to another person, he shall give notice thereof to the Commissioners within one week from the date of such transfer ; or, if he fail to give such notice, shall be liable to the whole tax for the quarter, although the period during which he may have owned or had charge of such vehicle or animal shall not have exceeded thirty days.

Transfer of ownership.

XVII. When a carriage shall have been under repair at a carriage-maker's for more than thirty days in any quarter, the Commissioners shall remit so much of the tax for that quarter, as may be proportionate to the number of days the said carriage may have been under repair.

Remission of tax on carriages under repair.

XVIII. The Commissioners, at their discretion, may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons, in lieu of the taxes specified in the Schedule.

Commissioners may compound with livery stable keepers and others.

XIX. Every carriage of the description rated in the Schedule at one Rupee eight annas, kept and let out for hire within the said Town, and every cart or bandy kept and used within the said Town, and every such carriage let out for hire and used within the said Town, and every cart or bandy used within the said Town, if such carriage, cart, or bandy be kept at any place within three miles from the limits thereof, shall be registered in the Office of the Commissioners with the name and residence of the owner, and shall bear, in such manner as the Commissioners shall direct, the number of such registration. The registration shall be made and the numbers assigned annually upon such day in each year as the Commissioners shall appoint. Any person becoming possessed within the year of any such carriage, cart, or bandy, which has not been registered, may obtain registration on applica-

Registry and numbering of hired carriages.

tion to the Commissioners at their office. When any registered carriage, cart, or bandy is transferred within the year, it shall be registered anew in the name of the person to whom it has been transferred. A fee of four annas shall be paid for each registration.

Penalty for not registering.

XX. Whoever keeps any such carriage, cart, or bandy required to be registered by the provisions of the last preceding Section, without being so registered, shall, on conviction before a Magistrate, be liable to a fine not exceeding ten Rupees, and the Commissioners, or any officer duly authorized by them, may seize or cause to be seized any such carriage, cart, or bandy (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods) together with the horses, bullocks, or other animals drawing the same, and may deliver them over to the Police ; and all Police Officers are hereby required, on the application of the Commissioners, or their officer as aforesaid, to seize and detain the same. If the carriage or other vehicle as aforesaid be not claimed, or if the fine be not paid within ten days, such carriage or vehicle, together with the animals seized with it, may be sold by auction, by order of the Magistrate, and the proceeds applied to the payment of the fine, and all costs and charges incurred on account of the detention and sale, and the overplus (if any), if not claimed by the owner within a further period of twenty days, shall be paid to the Municipal Commissioners.

Penalty for using upon Town roads, a carriage, &c., not entered in Schedule.

XXI. If any person, to whom a Schedule shall have been sent under Section XV. of the incorporated Act, shall bring or cause to be brought upon the roads of the said Town, any carriage, cart, or bandy, horse, pony, or mule, kept at any place not more than three miles distant from the limits of the said Town, without having entered the same in the said Schedule ; such person shall be liable to the penalty provided in the said Section.

Remission of tax if private carriage is not used.

XXII. Any person keeping within three miles from the limits of the said Town any carriage not required to be regis-

tered by the provisions of this Act, if he can satisfy the Commissioners that such carriage has not been used on the roads of the Town more than fifteen days in any quarter, shall be entitled to a remission of the tax for that quarter. Provided that, if such person have more than one such carriage, and his carriages, one with another, have been used on the Town roads more than fifteen days in the quarter, though no one of them has been used more than fifteen days, he shall be entitled to the remission for only one such carriage.

XXIII. Bills and notices of demand may be served on persons keeping carriages beyond the limits of the Town, either in the manner provided in the incorporated Act, or by delivery of the same to the driver of the carriage, when such carriage is found within the limits of the Town.

Service of notices, &c.

XXIV. Nothing contained in this Act shall be so construed, as to render liable to the said tax any person residing and keeping any carriage, cart, or bandy, horse, poney, or mule, at a distance of more than three miles from the limits of the said Town, on account of the same being brought for a temporary purpose upon the roads of the said Town; or to require that any hack carriage, cart, or bandy, belonging to any such person and kept as aforesaid, when brought upon the roads of the said Town for a temporary purpose, should be registered.

Persons residing beyond three miles not liable for temporary use of Town roads.

XXV. All monies received by the Commissioners by virtue of this Act or of Act XIV. of 1856 or of any other Act, and all monies which may be assigned by Government for purposes of conservancy and improvement in the said Town, shall constitute a fund, which shall be called "the Municipal Fund of Madras," and shall be under the direction, management, and control of the Municipal Commissioners, and shall be applied to the purposes of this Act and of the incorporated Act and of Act XIV. of 1856.

Municipal Fund.

XXVI. All fines and penalties levied under this Act or the incorporated Act shall be paid to the Municipal Fund.

Certain fines to be paid to the Municipal Fund.

Commencement
of Act.XXVII. This Act shall commence and take effect from
and after the first of January 1857.

SCHEDULE.

	Rupces per quarter.
For every 4-wheeled carriage on springs, drawn by two horses	4 8 0
For every 4-wheeled carriage on springs, drawn by one horse or pony or a pair of ponies under thirteen hands	1 8 0
For every 4-wheeled carriage without springs ...	1 8 0
For every 2-wheeled carriage on springs ...	2 4 0
For every 2-wheeled carriage without springs, cart, or bandy	0 12 0
For every horse	2 4 0
For every pony under thirteen hands, or mule ...	0 12 0
Ponies under eleven hands and children's carriages, the wheels of which do not exceed twenty-four inches in dia- meter, exempt.	

THE STRAITS.

ACT No. XXVII. OF 1856.

1. *Act repealed.*
2. *Present Committees and Assessment continued.*
3. *Act XXV. of 1856 incorporated. Construction.*
4. *Commissioners incorporated.*
5. *Official and elected Commissioners.*
6. *Qualification for election as a Municipal Commissioner.*
7. *Voters' qualification.*
8. *List of voters. Revision.*
9. *Election of Commissioners.*
10. *Time of voting.*
11. *Voting tickets.*
12. *Manner of voting.*
13. *Sheriff to declare who are elected.*
14. *Refusal to serve. Minimum of votes requisite for election.*
15. *Casting votes.*
16. *Appointment in default of election.*
17. *Appointment in case of vacancy before the time of a new elec-
tion.*
18. *Publication of the Commissioners' names.*

19. *Tenure of office by Commissioners.*
20. *Meetings of Commissioners.*
21. *Rate on houses, buildings, and lands.*
22. *Exemption of public buildings.*
23. *Power to exempt small holdings.*
24. *Remission on account of vacant houses.*
25. *Tax on vehicles and animals. Exemptions.*
26. *Registry and numbering of hired Carriages.*
27. *Penalty for not registering.*
28. *Municipal Fund.*
29. *Certain fines to be paid to the Municipal Fund.*
30. *Commencement of Act.*

AN ACT for appointing Municipal Commissioners, and for levying rates and taxes, in the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca.

WHEREAS it is expedient to make better provision for the appointment of Commissioners for the conservancy and improvement of the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca, and for assessing and levying rates and taxes for certain Municipal purposes in the said stations ; It is enacted as follows :—

I. Act IX. of 1848 is hereby repealed, except so far as it repeals any other Act, and except as to any assessment or tax which shall be unpaid, and as to any proceeding for the recovery of the same which shall have been commenced before this Act shall come into operation.

Act repealed.

II. The Municipal committees and other persons, heretofore appointed or acting under Act IX. of 1848, shall carry this Act into execution until other persons shall be appointed or elected under the provisions herein contained ; and the assessment and taxes payable under the said Act shall, until duly altered, respectively remain in full force and effect, and shall be levied and recovered as rates and taxes payable under this Act.

Present Committees and assessment continued.

III. Act XXV of 1856, entitled " An Act to comprise in one Act the provisions necessary for the assessment and collection of Municipal rates and taxes" in the Towns of

Act XXV. of 1856 incorporated. Construction.

Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca," is incorporated with this Act; and, in construing the said Act as incorporated with this Act, the expression "the special Act" shall mean this Act, the expression "the Commissioners" shall mean the Municipal Commissioner constituted by this Act, and the expression "the Local Government" shall mean the Governor of the said Settlement.

Commissioners
incorporated.

IV. At each of the stations of Prince of Wales' Island, Singapore, and Malacca, there shall be a Committee of not more than five persons, who shall be called respectively "The Municipal Commissioners of Prince of Wales' Island," "The Municipal Commissioners of Singapore," and "The Municipal Commissioners of Malacca," and who shall respectively by such name be a body corporate and have perpetual succession, and a common seal, and by such name shall sue and be sued.

Official and
elected Commis-
sioners.

V. At each of the said stations, the Resident Councillor shall be one of the Municipal Commissioners, one shall be appointed by the Governor of the Settlement, and three shall be elected by the rate-payers in the manner hereinafter provided. The Resident Councillor shall be the President of the Commissioners.

Qualification
for election as a
Municipal Com-
missioner.

VI. Every rate-payer, whose annual payment of rates under this Act shall amount to forty Rupees and upwards, shall be qualified for election as a Municipal Commissioner for the station at which he resides, and where the property for which the rates are paid is situate.

Voters' qualifi-
cation.

VII. Every rate-payer, whose annual payment of rates under this Act shall amount to the sum of twenty-five Rupees and upwards, shall be entitled to vote in the election of the three elective Commissioners of the station where the property for which the rates are paid is situate.

List of voters.
Revision.

VIII. The Municipal Commissioners of each station shall, previously to an election under this Act, cause to be

prepared correct lists of the persons qualified to be elected and qualified to vote for the election of Commissioners; and these lists shall be published and shall be open to public inspection at the office of the Commissioners, between the hours of ten in the morning and three in the afternoon, on every day (Sundays excepted) between the thirty-first of October and the day of election, when the said lists shall be taken to the place of election for the use of the Sheriff or his Deputy. The said lists may be revised or amended by the Court of Judicature of the station on the application of any person qualified to vote at any such election, provided that such application be made at least ten days before the day of election.

IX. Elections under this Act shall be made on one of the first seven days of December, under the superintendence of the Sheriff of the Settlement or of one of his Deputies, who shall appoint the day and place of election within each station, and shall give public notice of the same fifteen days at least before the day appointed.

**Election
Commissioners.**

X. The voting shall begin at the hour of ten in the morning, and shall end at the hour of five in the afternoon of the appointed day.

Time of voting.

XI. At the time and place appointed for the election, the Sheriff or his Deputy shall attend with a closed box with an opening for the reception of voting tickets. Every voting ticket shall bear the signature of the voter and the names of the persons for whom he wishes to vote.

Voting tickets.

XII. Every voter, having written on his voting ticket the names of the persons for whom he wishes to vote, and having signed the same, shall personally attend at the place of election and shall deliver his voting ticket to the Sheriff or his Deputy, who, on being satisfied of the identity of the person tendering the voting ticket with the person whose signature it bears, and that the name of such person is registered in the list of persons qualified to vote, shall deposit such voting ticket in the closed box.

**Manner of vot-
ing.**

Sheriff to declare who are elected.

XIII. As soon as the election is completed, the Sheriff or his Deputy, in the presence of the voters or such of them as shall be present, shall ascertain the number of votes given for each person; and the Sheriff or his Deputy shall thereupon publicly declare the names of the three persons for whom the greatest number of votes has been given, and shall declare such persons to be duly elected Municipal Commissioners of the station.

Refusal to serve. Minimum of votes requisite for election.

XIV. In case any one of the persons so elected shall refuse to serve as a Municipal Commissioner, the Sheriff or his Deputy shall, immediately after such refusal, declare the name of the person for whom the next greatest number of votes has been given, and shall declare such last mentioned person to be duly elected a Municipal Commissioner in the place of the person first elected. Provided always, that no person shall be competent to be elected a Municipal Commissioner of either of the said stations, unless the number of votes given in his favor shall exceed ten.

Casting votes.

XV. In case there shall be an equal number of votes for any two or more persons at any such election, the Governor of the Settlement, or, in his absence from the station at which such election is being made, the Resident Councillor shall give a casting vote for one or more of such persons having an equal number of votes.

Appointment in default of election.

XVI. In case it shall be found impracticable to obtain by election three Municipal Commissioners at any of the said stations, from refusal to act, failure of election, or otherwise, it shall be lawful for the Governor of the Settlement, or, in his absence from the station, for the Resident Councillor, to appoint some person, being a qualified rate-payer, to be a Municipal Commissioner; and such appointment shall be as valid and effectual as if the person so appointed had been elected in manner hereinbefore provided for.

Appointment in case of vacancy before the time of a new election.

XVII. If from death, resignation, or any other cause, a vacancy shall happen before the time of a new election it

shall be lawful for the Governor of the Settlement, or in his absence from the station for the Resident Councillor, to declare the person for whom, next after the elected Commissioners, the greatest number of votes was given at the last election to be a Municipal Commissioner; or if there be no person for whom the prescribed number of votes was given, to appoint some person being a qualified rate-payer.

XVIII. The names of the persons elected at every election shall be certified by the Sheriff or his Deputy to the Resident Councillor of the station, who shall cause notice thereof, together with the names of the official and appointed Commissioners, to be published in such manner as the Governor of the Settlement may direct.

**Publication of
the Commission-
ers' names.**

XIX. The Commissioners at each of the said stations shall enter upon their office on the first day of January after their election and appointment, and shall hold their office for one year. Appointments to fill up vacancies shall have effect only for the remaining portion of the year within which they are made.

**Tenure of office
by Commission-
ers.**

XX. The Commissioners shall hold their first meeting at such time and place as shall be fixed by their President, and their subsequent meetings at such times and places as they shall themselves appoint; and at every such meeting all questions shall be decided by a majority of votes. Three Commissioners shall constitute a quorum, and the President, or in his absence the Chairman, who shall be chosen by the Commissioners present, shall have a second or casting vote on all questions on which the Commissioners are equally divided in opinion.

**Meetings of
Commissioners.**

XXI. An annual rate, not exceeding ten per centum of the annual value, shall be imposed upon all houses and buildings, and not exceeding five per centum upon all lands within each station, and shall be payable by the owners thereof by half-yearly instalments. The rate shall be fixed from time to time by the Governor of the Settlement.

**Rate on houses,
buildings, and
lands.**

Exemption of public buildings.

XXII. Houses and buildings used exclusively as places of public worship or for charitable purposes, hospitals, barracks, and lines for soldiers, Courts of Justice, and Police Offices and stations, jails, and convict lines, shall not be liable to the rate.

Power to exempt small holdings.

XXIII. The Commissioners may exempt from assessment any house, building, or land, the annual value whereof is less than twelve Rupees, if the same be the sole rateable property of the owner, or any house or hut which shall be occupied rent-free by any laborers employed at a plantation.

Remission on account of vacant houses.

XXIV. When any house or building shall have been vacant for sixty consecutive days during any year, the Commissioners shall remit so much of the rate for that year as may be proportionate to the number of days the said house or building may have remained unoccupied; Provided that the owner of such house or building, or his agent, shall have given notice in writing of the vacancy thereof to the Commissioners, and that the amount of rate to be remitted shall be calculated from the date of the delivery of such notice.

Tax on vehicles and animals. Exemptions.

XXV. A tax shall be imposed upon all carriages, waggon, carts, and all horses, ponies, mules, and elephants kept in each of the said stations, and shall be payable quarterly in advance by the owners or persons having charge of the same at the following rates per annum, namely—

	<i>Rupees.</i>
For every four-wheeled Carriage on springs	24
For every two-wheeled Carriage on springs	18
For every Waggon drawn by man or beast	16
For every Cart drawn by any description of Cattle	12
For every Cart drawn by man	8
For every horse, pony, or mule	4
For every elephant	20

Provided that the several vehicles and animals herein-after mentioned shall be exempt from the said tax, namely—

1. Gun carriages, and Ordnance carts and waggons.
2. Horses belonging to Officers doing Regimental duty, at the rate of one horse for each Officer.

3. Conservancy carts, horses, ponies, and mules belonging to the Commissioners.

4. All vehicles and animals kept for sale, and not used for any other purpose, provided the same be in the hands of *bonâ fide* dealers in such vehicles or animals.

5. Waggon and carts kept within estates or plantations and not used upon the public roads, having the name of the owner painted upon some conspicuous part thereof in letters not less than two inches in length, and registered at the Office of the Commissioners.

6. All animals kept within estates or plantations and not used upon the public roads.

7. Ponies under 11 hands, and children's carriages, the wheels of which do not exceed 24 inches in diameter.

XXVI. Every carriage kept and let out for hire, and every waggon and cart kept and used within any of the said stations, shall be registered in the office of the Commissioners, with the name and residence of the owner, and shall bear the number of such registration in such manner as the Commissioners shall direct. The registration shall be made and the numbers assigned annually upon such day in each year as the Commissioner shall appoint. Any person becoming possessed within the year of any such carriage, waggon, or cart, which has not been registered, may obtain registration on application to the Commissioners at their Office. When any registered carriage, waggon, or cart is transferred within the year, it shall be registered anew in the name of the person to whom it has been transferred. A fee of four annas shall be paid for each registration.

Registry and
numbering
of
hired Carriages.

XXVII. Whoever keeps within any of the said stations, any such carriage, waggon, or cart required to be registered by the provisions of the last preceding Section, without being so registered, shall, on conviction before a Magistrate, be liable to a fine not exceeding ten Rupees; and the Commissioners, or any officer duly authorized by them, may seize or cause to be seized any such carriage

Penalty for not
registering.

waggon, or cart (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods) together with the horses, bullocks, or other animals drawing the same, and may deliver them over to the Police; and all Police Officers are hereby required, on the application of the Commissioners or their officer as aforesaid, to seize and detain the same. If the carriage or other vehicle as aforesaid be not claimed, or if the fine be not paid within ten days, such carriage or vehicle, together with the animals seized with it, may be sold by order of the Magistrate, and the proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale; and the surplus (if any), if not claimed by the owner within a further period of twenty days, shall be paid to the Municipal Commissioners.

Municipal Fund.

XXVIII. All monies received by the Commissioners by virtue of this Act, or of Act XIV. of 1856, or of any other Act at each of the said stations, shall form a fund which shall be called the "Municipal Fund" of the station at which the same shall have been so received. The Municipal Fund of each station shall be under the direction, management, and control of the Municipal Commissioners of such station, who shall in the first instance appropriate such sum as may be declared by the Governor of the Settlement to be necessary for the payment and maintenance of the Police force constituted according to Section VII. of Act XIII. of 1856 and for the payment of the office establishments of the Magistrate and of the Commissioner of Police (but not including the salary of any such Magistrate or Commissioner), such sum to be paid at the times and in the manner which the Governor may direct; and shall apply the residue to the purposes of this Act and the incorporated Act and of Act XIV. of 1856.

Certain fines to
be paid to the
Municipal Fund.

XXIX. All fines and penalties imposed, and all fees and poundage levied, by the Court of Quarter Sessions or by any Magistrate, and all tolls received at any public Ferry,

shall be paid to the Commissioners of the station at which the same shall have been imposed, levied, or received, and shall be carried to the credit of the Municipal Fund of such station.

XXX. This Act shall commence and take effect from and after the first of January 1857.

Commencement
of Act.

ACT 'NO. XXVIII. OF 1856.

CALCUTTA.

1. *Acts repealed. Recovery of arrears of assessment.*
2. *Remission of part of the last quarterly assessment.*
3. *Act XXV. of 1856 incorporated. Construction.*
4. *Number, appointment, and removal of Commissioners.*
5. *President.*
6. *Commissioners incorporated.*
7. *Meetings of Commissioners.*
8. *Pay of Commissioners.*
9. *Rate on houses, buildings, and lands.*
10. *Exemption of Fort William and of certain public buildings.*
11. *Power to exempt small holdings.*
12. *Remission on account of vacant houses.*
13. *Tax on vehicles and animals.*
14. *Exemption of certain vehicles and animals.*
15. *What will constitute liability to the tax for a whole quarter.*

Transfer of ownership.

16. *Remission of tax on carriages under repair.*
17. *Commissioners may compound with livery stable-keepers and others.*

18. *Registry and numbering of hired carriages.*
19. *Penalty for not registering.*
20. *Gas Contracts.*
21. *Lighting-rate.*
22. *Occupier liable to the rate for time of occupation only. Proviso.*
23. *Owner when liable.*
24. *Occupier sub-letting.*
25. *Drainage.*
26. *Drainage-rate on houses in the environs of the Town.*
27. *Certain provisions of Conservancy Act extended.*
28. *Recovery of expenses, on account of improvements of private property.*

29. *Water supply.*

30. *Municipal Fund.* *

31. *Certain fines to be paid to the Municipal Fund.*

32. *Commencement of Act.*

An Act for appointing Municipal Commissioners, and for levying rates and taxes in the Town of Calcutta.

WHEREAS it is expedient to make better provision for the appointment of Commissioners for the conservancy and improvement of the Town of Calcutta, and for assessing and levying rates and taxes for Municipal purposes in the said Town; and whereas it is also expedient to provide additional funds for improving the drainage and lighting of the said Town; It is enacted as follows :—

Acts repealed.
Recovery of
arrears of assess-
ment.

I. Act X of 1852, Section 50, Act XII. of 1852, and Act XXVIII. of 1854, are hereby repealed, except so far as they repeal any other Act, and except as to any assessment made before this Act comes into operation. Any sum of money due, or which may become due in respect of such assessment, may be levied and recovered under the provisions of this Act.

Remission of
part of the last
quarterly assess-
ment.

II. And whereas the quarterly assessment last made under Act X. of 1852 includes the month of January 1857, and power is given by this Act to impose a rate upon houses, buildings, and lands for a period including the same month, it is hereby enacted that one-third of the sum payable on account of the said assessment shall be remitted.

Act XXV. of
1856 incorporat-
ed. Construction.

III. Act XXV. of 1856, entitled “An Act to comprise in one Act the provisions necessary for the assessment and collection of Municipal rates and taxes in the Towns of Calcutta, Madras and Bombay, and the several stations of the Settlement of Prince of Wales’ Island, Singapore, and Malacca,” is incorporated with this Act; and in construing the said Act as incorporated with this Act, the expression “the special Act” shall mean this Act, the expression “the Commissioners” shall mean the Municipal Commissioners constituted by this Act; and the expression “the Local Government” shall mean the Lieutenant-Governor of Bengal.

IV. There shall be three Commissioners for the purposes of this Act, and for the conservancy of the Town of Calcutta under Act XIV. of 1856. Such Commissioners shall be appointed by the Lieutenant-Governor of Bengal, and shall be removable at his pleasure.

Number, ap-
pointment, and
removal of Com-
missioners.

V. The Lieutenant-Governor of Bengal shall appoint one of the said Commissioners to be President of the Board of Commissioners.

President.

VI. The Commissioners so appointed shall be styled the Municipal Commissioners for the Town of Calcutta, and shall by such name be a body corporate and have perpetual succession and a common seal, and by such name shall sue and be sued.

Commissioners
incorporated.

VII. The Municipal Commissioners shall meet once at least in every week. The attendance of two shall be necessary to constitute a Meeting. At a Meeting of two on questions on which they are divided in opinion, if the President be one of them, he shall have a casting vote; otherwise the question shall be reserved for the decision of a future Meeting.

Meetings
of
Commissioners.

VIII. The Municipal Commissioners may receive such allowances out of the funds to be raised under this Act as shall be, from time to time, fixed by the Lieutenant-Governor. Provided that the allowances for any Commissioner shall not exceed the rate of ten thousand Rupees a year, if the Commissioner holds no other appointment or occupation, or the rate of four thousand Rupees a year if he holds any other appointment or occupation.

Pay of Commis-
sioners.

IX. An annual rate of seven and a half per cent. of the annual value shall be imposed upon houses, buildings, and lands in the said Town, and shall be payable by the owners thereof by quarterly instalments.

Rate on houses,
buildings, and
lands.

X. Houses, buildings, and lands situate in Fort William, on the Esplanade of the Fort, and in Cooly Bazaar,

Exemption of
Fort William.

and of certain public buildings.

and buildings used exclusively as places of public worship, shall not be liable to the rate.

Power to exempt small holdings.

XI. The Commissioners may exempt from assessment any house, building, or land, the annual value whereof is less than twelve Rupees, if the same be the sole rateable property of the owner.

Remission on account of vacant houses.

XII. When any house shall have been vacant for sixty consecutive days during any year, the Commissioners shall remit so much of the rate for that year, as may be proportionate to the number of days the said house may have remained unoccupied; provided that the owner of such house, or his agent, shall have given notice in writing of the vacancy thereof to the Commissioners, and that the amount of rate to be remitted shall be calculated from the date of the delivery of such notice.

Tax on vehicles and animals.

XIII. A tax shall be imposed upon all carriages, carts, hackeries, horses, ponies and mules, kept within the said Town, and upon all carts and hackeries plying for hire within the said Town, or let for hire and used within the said Town, and kept at any place beyond the limits thereof, at the rates specified in the annexed Schedule; and shall be payable quarterly by the owners or persons having charge of the same.

Exemption of certain vehicles and animals.

XIV. Provided that the several vehicles and animals hereinafter mentioned shall be exempt from the Tax, namely :—

Gun Carriages, and Ordnance Carts and Waggons.
Cavalry Horses, and Horses of the Mounted Police.

Horses belonging to Officers doing Regimental duty at the Presidency, at the rate of one horse for each Officer.

Conservancy Carts, Horses, Ponies, and Mules belonging to the Commissioners.

Vehicles and Animals kept for sale and not used for any other purpose, if kept by *bond fide* dealers in such vehicles and animals.

XV. Every person, who may have owned or had charge of any vehicle or animal kept within the said Town for a period exceeding thirty days in any quarter, shall be liable to the whole tax for that quarter. If the period do not exceed thirty days, no tax shall be chargeable for that quarter. Provided that, when any person owning or having charge of any vehicle or animal shall transfer the same to another person, he shall give notice thereof to the Commissioners within one week of the date of such transfer, or, if he fail to give such notice, shall be liable to the whole tax for the quarter, although the period during which he may have owned or had charge of such vehicle or animal shall not have exceeded thirty days.

What constitutes liability to the tax for a whole quarter. Transfer of ownership.

XVI. When a carriage shall have been under repair at a carriage-maker's for more than thirty days in any quarter, the Commissioners shall remit so much of the tax for that quarter as may be proportionate to the number of days the said carriage may have been under repair.

Remission of tax on carriages under repair.

XVII. The Commissioners at their discretion may compound, for any period not exceeding one year, with Livery Stable-keepers and other persons keeping carriages and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons, in lieu of the taxes specified in the Schedule.

Commissioners may compound with livery stable-keepers, &c.

XVIII. Every carriage of the description rated in the Schedule at one Rupee eight annas, kept and let out for hire within the said Town; and every cart and hackery kept and used within the said Town; and every cart and hackery plying for hire within the said Town, or let for hire and used within the said Town, and kept at any place beyond the limits thereof—shall be registered in the Office of the Commissioners, with the name and residence of the owner, and shall bear, in such manner as the Commissioners shall direct, the number of such registration. The registration shall be made and the numbers assigned annually, upon such day in each year as the Commissioners shall appoint.

Registry and numbering of hired carriages.

Any person becoming possessed within the year of any such carriage, cart or hackery which has not been registered, may obtain registration on application to the Commissioners at their Office. When any registered carriage, cart, or hackery is transferred within the year, it shall be registered anew in the name of the person to whom it has been transferred. A fee of four annas shall be paid for each registration.

**Penalty for not
registering**

XIX. Whoever keeps any such carriage, cart, or hackery required to be registered by the provisions of the last preceding Section, without being so registered, shall, on conviction before a Magistrate, be liable to a fine not exceeding ten Rupees; and the Commissioners, or any officer duly authorized by them, may seize or cause to be seized any such carriage, cart, or hackery (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods), together with the horses, bullocks or other animals drawing the same, and may deliver them over to the Police; and all Police officers are hereby required, on the application of the Commissioners or their officer as aforesaid, to seize and detain the same. If the carriage or other vehicle as aforesaid be not claimed, or if the fine be not paid within ten days, such carriage or vehicle, together with the animals seized with it, may be sold by auction by order of the Magistrate, and the proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale; and the surplus (if any), if not claimed by the owner within a further period of twenty days, shall be paid to the Municipal Commissioners.

Gas Contracts.

XX. The Commissioners, with the sanction of the Lieutenant Governor of Bengal, may contract with the owners of any Gas works for lighting with Gas such of the public streets of the said Town as the Commissioners, with the like sanction, shall from time to time determine.

Lighting-rate

XXI. To provide for the better lighting of the public streets of the said Town, an annual Lighting-rate of two per cent. of the annual value shall be imposed upon all houses,

buildings, and lands in the said Town, the estimated monthly rent of which is not less than ten Rupees; and such rate shall be payable in quarterly instalments by the occupiers of such houses, buildings, and lands. The sum applicable annually to the current expenses of lighting the said streets shall be the gross proceeds of the said Lighting-rate and no more; but the Commissioners may expend out of the funds at their disposal such further sums as may from time to time be requisite for the purchase, setting up, and maintaining of lamps, lamp-posts, pipes, and other necessary apparatus.

• XXII. Every occupier shall be liable to the Lighting-rate for the time of his occupation; and when any person shall have been an occupier for a part only of any quarter, the Commissioners shall charge him with only so much of the rate for that quarter as may be proportionate to the number of days during which he continued to be an occupier. No such rate shall be chargeable to any person on account of any unoccupied house for the time during which it may remain unoccupied. Provided always, that, when any person ceases to be the occupier of any premises liable to the rate, he shall give the Commissioners notice thereof and of the place to which he has removed, or, if he fail to give such notice, shall be liable to the rate assessed on the said premises for the whole quarter, although he may have occupied them for a part only of such quarter.

Occupier liable
to rate during
occupation only.
Proviso.

XXIII. When any house or building, or any land, is let by the owner in apartments or portions, the owner shall be liable to pay the Lighting-rate instead of the occupier or occupiers.

Owner when
liable.

XXIV. When any person, who rents from the owner any house or building, or any land, sub-lets the same in apartments or portions, such person, for the purposes of the Lighting-rate, shall be held to be the occupier.

Occupier sub-
letting.

XXV. The Commissioners shall carry out, with as little delay as possible, such a complete system of sewerage and

Drainage.

drainage within the said Town, as shall be directed by the Lieutenant-Governor of Bengal, with the sanction of the Governor General in Council, subject to such alterations as may from time to time be ordered by the Lieutenant-Governor with such sanction; and until such system of sewerage and drainage has been completed, and all the expenses thereof defrayed, and all monies borrowed for the payment of such expenses on the security of the rates and interest thereon have been repaid, shall set apart for the purposes above mentioned an annual sum not less than one hundred and fifty thousand Rupees, out of the proceeds of the rate provided by Section IX of this Act.

Drainage-rate
on houses in the
environs of the
Town.

XXVI. The Lieutenant-Governor of Bengal may determine what portions, if any, of the environs of the said Town shall be included in the said system of sewerage and drainage, and may declare the boundaries thereof by notification in the *Calcutta Gazette*. An annual rate, to be fixed from time to time by the said Lieutenant-Governor, not exceeding two and a half per cent. of the annual value, may be imposed upon all houses, buildings, and lands situate within the boundaries so notified, and shall be payable by the owners thereof by quarterly instalments. For the purposes of the said rate, the houses, buildings, and lands situate within such boundaries as aforesaid, shall be held and deemed to be a part of the said Town; and all the provisions of this Act and the incorporated Act, which relate to the assessment and collection of a rate payable by owners, shall have effect in respect to such rate.

Certain parts
of Conservancy
Act extended.

XXVII. Sections XLIV to LX, both inclusive, of Act XIV of 1856, entitled "An Act for the conservancy and improvement of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca," shall have effect within the boundaries to be fixed under the last preceding Section, and all penalties, expenses, and compensation which, under the said Sections and by the provisions of the said Act, may be

adjudged and determined by a Magistrate or by two Magistrates acting in and for the Town of Calcutta, may be adjudged and determined within such boundaries by the Magistrate having jurisdiction therein.

XXVIII. Whenever the Commissioners shall have incurred any expenses in the execution of any of the works which, under Sections XXIV, LI, and LIII of the said Act XIV of 1856, the owners of any premises, houses, or buildings are required to execute, the Commissioners may either recover the amount of such expenses in the manner therein provided, or if they think fit, may take engagements from the said owners for the quarterly payment of such sums as will be sufficient to defray the whole amount of the said expenses, with interest thereon, at the rate of six per cent. per annum, within a period not exceeding five years; and such sums, when due, may be recovered by the same process by which rates may be recovered under the incorporated Act.

Recovery of expenses on account of improvements of private property.

XXIX. The Commissioners, under the direction of the Lieutenant-Governor of Bengal, shall, with as little delay as possible, cause to be made and constructed such tanks, reservoirs, or other works, as shall be necessary to provide in convenient parts of the said Town, for the use of the inhabitants thereof; a proper supply of good and wholesome water for drinking and domestic purposes, and until such tanks, reservoirs, or other works, shall have been made and constructed, and all the expenses thereof defrayed, and all monies borrowed for the payment of such expenses on the security of the rates and interest thereon shall have been repaid, shall set apart, for the purpose above mentioned, an annual sum not less than thirty thousand Rupees, out of the proceeds of the rate provided by Section IX of this Act. If such supply of water shall have been provided, and all the expenses thereof defrayed, and all monies borrowed for the payment of such expenses and interest thereon shall have been repaid, before the complete system of sewerage and drainage mentioned in Section XXV of this Act shall have been completed, the said annual sum

Water supply.

of thirty thousand Rupees shall be added to the annual sum of one hundred and fifty thousand Rupees directed to be set apart by the said Section XXV of this Act.

**Municipal
Fund**

XXX. All monies received by the Commissioners by virtue of this Act, or of Act XIV of 1856, or of any other Act, and all monies which may be assigned by Government for purposes of conservancy and improvement in the said Town, shall constitute a Fund, which shall be called the Municipal Fund of Calcutta, and shall be under the direction, management, and control of the Municipal Commissioners, and shall be applied to the purposes of this Act and of the incorporated Act and of Act XIV of 1856.

**Certain fines to
be paid to the
Municipal Fund.**

XXXI. All fines and penalties levied under this Act, or the incorporated Act, shall be paid to the Municipal Fund.

**Act when to
commence.**

XXXII. This Act shall commence and take effect from and after the first of January 1857.

SCHEDULE.

*Rupees
per Quarter*

For every 4-Wheel Carriage on Springs, drawn by two Horses,	4	8	3
For every 4-Wheel Carriage on Springs, drawn by one Horse, or Pony, or a pair of Ponies, under thirteen hands,	1	8	0
For every 4-Wheel Carriage, without Springs,	1	8	0
For every 2-Wheel Carriage on Springs, ..	2	4	0
For every 2-Wheel Carriage without Springs, Cart, or Hackery,	0	12	0
For every Horse,	2	4	0
For every Pony under thirteen hands, or Mule	0	12	0

Ponies under eleven hands, and Children's Carriages, the wheels of which do not exceed twenty-four inches in diameter, exempt,

ACT No. XXIX OF 1856.

GENERAL.

An Act concerning the taking of Oaths of Office by Registers of Deeds.

WHEREAS it is expedient to amend the law which requires a Register of Deeds, appointed under the provisions of Act XXX of 1838, to take and subscribe the oath of office before the Judge of the Zillah; It is enacted as follows :—

So much of Section II, Regulation XXXVI, 1793 (extended to Cuttack by Section XXXII, Regulation XII, 1805), of Section II, Regulation XXVIII, 1795, and of Section II, Regulation XVII, 1803 (extended to Bundelcund, Saharunpore, and Agra by Clause I, Section XVII, Regulation VIII, 1805), of the Bengal Code, as requires that a Register of Deeds shall take and subscribe the oath therein prescribed before the Judge of the Zillah, shall not apply to Registers of Deeds appointed under the provisions of Act XXX of 1838. The Chief Civil Officer of any station at which an office for the registry of Deeds may be established under the said Act, shall be competent to administer the oath of office, or a declaration substituted for such oath, to any person appointed to register Deeds at such station.

ACT No. I OF 1857.

EXPIRED.

CALCUTTA.

ACT No. II OF 1857.*

1. *Incorporation.*
2. *Power to hold and dispose of property.*
3. *Constitution of Body Corporate. Senate. Office vacated by leaving India.*
4. *Chancellor.*
5. *Vice-Chancellor.*
6. *Fellows.*
7. *The appointment of a Fellow may be cancelled.*
8. *Chancellor, Vice-Chancellor, and Fellows to superintend the affairs of the University. Bye-laws.*
9. *Meetings of the Senate.*
10. *Appointment and removal of Examiners and Officers.*
11. *Power to confer degrees.*
12. *Qualification for admission of Candidates for degrees.*
13. *Examination for degrees.*
11. *Grant of degrees.*
15. *Fees. Annual accounts.*

* See Act XLVII
1860, Sec. 2

An Act to establish and incorporate an University at Calcutta.

Incorporation.

WHEREAS, for the better encouragement of Her Majesty's subjects of all classes and denominations within the Presidency of Fort William in Bengal and other parts of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Calcutta, for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and of rewarding them by Academical Degrees as evidence of their respective attainments, and marks of honor proportioned thereunto; and whereas, for effectuating the purposes aforesaid, it is expedient that such University should be incorporated; It is enacted as follows: (that is to say)—

I. The following persons, namely,

The Right Honorable CHARLES JOHN VISCOUNT CANNING, GOVERNOR
General of India.

The Honorable JOHN RUSSEL COLVIN, Lieutenant Governor of the
North-Western Provinces.

The Honorable FREDERICK JAMES HARRIS, Lieutenant-Governor
of Bengal

The Honorable SIR JAMES WILLIAM COCHRAN, Knight, Chief Justice
of the Supreme Court of Judicature in Bengal

The Right Reverend DANIEL WILSON, Doctor of Divinity, Bishop of
Calcutta

The Honorable GEORGE ANSON, General, Commander in Chief of the
Forces in India

The Honorable JOSEPH ALEXANDER DORIN, Member of the Supreme
Council of India

The Honorable JOHN LOW, Major General, Companion of the Most
Honorable Order of the Bath, Member of the Supreme Council of
India

The Honorable JOHN PETER GILCHRIST, Member of the Supreme Council
of India

The Honorable BARNES PILCOCK, Member of the Supreme Council of
India

CHARLES AILEN, Esquire, Member of the Legislative Council of
India

HENRY RICKETTS, Esquire, Provisional Member of the Supreme
Council of India

CHARLES BENNY TREVOR, Esquire, Judge of the Sudder Court in
Bengal

PRINCE GHOLAM MUHAMMAD

WILLIAM RITCHIE, Esquire, Advocate General in Bengal

CECIL BRADON, Esquire, Secretary to the Government of India.

Colonel HENRY GOODWIN, of the Bengal Engineers, Chief Engineer
in Bengal

WILLIAM GORDON YOUNG, Esquire, Director of Public Instruction
in Bengal

Lieut-Colonel WILLIAM ERSKINE BAKER, of the Bengal Engineers,
Secretary to the Government of India

Lieut-Colonel ANDREW SCOTT WALGH, of the Bengal Engineers,
Surveyor General of India

KENNETH MACKINNON, Esquire, Doctor in Medicine

HODGSON PRATT, Esquire, Inspector of Schools in Bengal.

HENRY WALKER, Esquire, Professor of Anatomy and Physiology in
the Medical College of Bengal

THOMAS THOMSON, Esquire, Doctor in Medicine, Superintendent of
the Botanical Garden at Calcutta

FREDERICK JOHN MOWAT, Esquire, Doctor in Medicine, and Fellow
of the Royal College of Surgeons

Lieutenant WILLIAM NASSAU LEE, of the Bengal Infantry.

The Reverend WILLIAM RAY, Doctor of Divinity, Principal of
Bishop's College

The Reverend ALEXANDER DUFF, Doctor of Divinity.

THOMAS OLDHAM, Esquire, Superintendent of the Geological Survey of India.

HENRY WOODROW, Esquire, Inspector of Schools in Bengal.

LEONIDAS CLINE, Esquire, Principal of the Presidency College.

PROSONNO COOMAR TAGOR, Clerk Assistant of the Legislative Council of India.

RAMAPERSHAD ROY, Government Pleader in the Sudder Court of Bengal.

The Reverend JAMES OGILVIE, Master of Arts.

The Reverend JOSEPH MULLENS, Bachelor of Arts.

MOULVY MUHAMMUD WUJEEH, Principal of the Calcutta Mudrasah.

ISHWAR CHUNDRĀ BIDYĀ SĀGUR, Principal of the Sanskrit College of Calcutta.

RANGOPAUL GHOSH, formerly Member of the Council of Education.

ALEXANDER GRANT, Esquire, Apothecary to the East India Company.

HENRY STEWART REID, Esquire, Director of Public Instruction in the North-Western Provinces,

being the first Chancellor, Vice-Chancellor, and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor, or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor, or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Calcutta; and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto, in every Court of Justice within the territories in the possession and under the government of the East India Company.

Power to hold
and dispose of
property

II. The said Body Corporate shall be able and capable in law to take, purchase, and hold any property, moveable or immoveable, which may become vested in it for the purposes of the said University by virtue of any purchase, grant, testamentary disposition, or otherwise; and shall be able and capable in law to grant, demise, alien, or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the said University; and also to do all other matters incidental or appertaining to a Body Corporate.

III. The said Body Corporate shall consist of one Chancellor, one Vice-Chancellor, and such number of ex-officio and other Fellows as the Governor General of India in Council hath already appointed, or shall from time to time, by any order published in the *Calcutta Gazette*, hereafter appoint; and the Chancellor, Vice-Chancellor, and Fellows for the time being shall constitute the Senate of the said University. Provided that, if any person being Chancellor, Vice-Chancellor, or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

**Constitution of
Body Corporate,
and of Senate.**

IV. The Governor General of India for the time being shall be the Chancellor of the said University, and the first Chancellor shall be the Right Honorable Charles John Viscount Canning

Chancellor.

V. The first Vice-Chancellor of the said University shall be Sir James William Colvile, Knight. The office of Vice-Chancellor shall be held for two years only, and the Vice-Chancellor heretofore nominated shall go out of office on the first day of January 1859. Whenever a vacancy shall occur in the office of Vice-Chancellor of the said University by death, resignation, departure from India, effluxion of time, or otherwise, the Governor General of India in Council shall, by notification in the *Calcutta Gazette*, nominate a fit and proper person, being one of the Fellows of the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy. Provided that, on any vacancy in the said office which shall occur by effluxion of time, the Governor General of India in Council shall have power to re-appoint the Vice-Chancellor heretofore nominated or any future Vice-Chancellor to such office.

**Vice-Chancel-
lor.**

VI. The Lieutenant-Governors of Bengal and the North-Western Provinces, the Chief Justice of the Supreme Court of Judicature at Fort William in Bengal or of any Court of Judicature hereafter to be constituted to or in which the powers of the said Supreme Court may be transferred or vested, the Bishop of Calcutta, and the Members of the Supreme Council of India, all for the time being, shall be ex-officio Fellows of the said University. The whole

Fellows.

number of the Fellows of the said University, exclusive of the Chancellor and Vice-Chancellor for the time being, shall never be less than thirty; and whenever the number of the said Fellows, exclusive as aforesaid, shall by death, resignation, departure from India, or otherwise, be reduced below thirty, the Governor General of India in Council shall forthwith, by notification in the *Calcutta Gazette*, nominate so many fit and proper persons to be Fellows of the said University, as, with the then Fellows of the said University, shall make the number of such Fellows, exclusive as aforesaid, thirty. But nothing herein contained shall prevent the Governor General of India in Council from nominating more than thirty persons to be Fellows of the said University, if he shall see fit.

Appointment
of a Fellow may
be cancelled

VII. The Governor General of India in Council may cancel the appointment of any person already appointed, or hereafter to be appointed a Fellow of the University, and as soon as such order is notified in the *Gazette*, the person so appointed shall cease to be a Fellow.

The Senate to
superintend the
affairs of the
University

VIII. The Chancellor, Vice-Chancellor, and Fellows for the time being shall have the entire management of and superintendence over the affairs, concerns, and property of the said University, and in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor, and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University. The said Chancellor, Vice-Chancellor, and Fellows shall have full power from time to time to make and alter any bye-laws and regulations (so as the same be not repugnant to law, or to the general objects and provisions of this Act, touching the examination for Degrees and the granting of the same; and touching the examination for Honors and the granting of marks of honor for a higher proficiency in the different branches of Literature, Science and Art, and touching the qualifications of the candidates for Degrees, and the previous course of instruction to be followed by them, and the preliminary examinations to be submitted to by them; and touching the mode and time of convening the meetings of the Chancellor, Vice-Chancellor,

Bye-laws

and Fellows, and, in general, touching all other matters whatever regarding the said University. And all such bye-laws and regulations, when reduced into writing, and after the common seal of the said University shall have been affixed thereto, shall be binding upon all persons, members of the said University, and all candidates for Degrees to be conferred by the same, provided such bye-laws and regulations shall have been first submitted to and shall have received the approval of the Governor General of India in Council

IX All questions which shall come before the Chancellor, Vice-Chancellor, and Fellows, shall be decided at a meeting of the Senate by the majority of the members present, and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote. No question shall be decided at any meeting, unless the Chancellor, or Vice-Chancellor, and five fellows, or, in the absence of the Chancellor and Vice-Chancellor, unless six Fellows at the least shall be present at the time of the decision. At every meeting of the Senate, the Chancellor, or in his absence the Vice-Chancellor, shall preside as Chairman, and, in the absence of both, a Chairman shall be chosen by the Fellows present, or the major part of them.

Meetings
the Senate of

X The said Chancellor, Vice-Chancellor, and Fellows for the time being shall have full power from time to time to appoint, and, as they shall see occasion, to remove all Examiners, Officers, and servants of the said University.

Appointment
and removal of
Examiners and
Officers

XI The said Chancellor, Vice-Chancellor, and Fellows, shall have power, after examination, to confer the several Degrees of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, and Master of Civil Engineering, they shall also have power, after examination, to confer upon the candidates for the said several Degrees marks of honor for a high degree of proficiency in the different branches of Literature, Science, and Art, according to rules to be determined by the bye-laws to be from time to time made by them under the power in that behalf given to them by this Act *

Power to con-
fer Degrees.

* The powers to confer Degrees and to grant Diplomas and Licenses in respect of them, has been enlarged by Act XLVII 1860.

**Qualification
for admission of
Candidates for
Degrees.**

XII. Except by special order of the Senate, no person shall be admitted as a candidate for the Degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, or Master of Civil Engineering, unless he shall present to the said Chancellor, Vice-Chancellor and Fellows, a certificate from one of the Institutions authorized in that behalf by the Governor General of India in Council, to the effect that he has completed the course of instruction prescribed by the Chancellor, Vice-Chancellor, and Fellows of the said University, in the bye-laws to be made by them under the power in that behalf given by this Act.

**Examination
for Degrees.**

XIII. The said Chancellor, Vice-Chancellor, and Fellows shall cause an examination for Degrees to be held at least once in every year; on every such examination, the candidates shall be examined either by Examiners appointed for the purpose from among the Fellows by the said Chancellor, Vice-Chancellor, and Fellows, or by other Examiners so to be appointed; and on every such examination the candidates, whether candidates for an ordinary Degree or for a Degree with honors, shall be examined on as many subjects and in such manner as the said Chancellor, Vice Chancellor, and Fellows shall appoint.

**Grant of De-
grees.**

XIV. At the conclusion of every examination of the candidates, the Examiners shall declare the name of every candidate whom they shall have deemed entitled to any of the said Degrees, and his proficiency in relation to other candidates; and also the Honors which he may have gained in respect of his proficiency in that department of knowledge in which he is about to graduate; and he shall receive from the said Chancellor a certificate, under the seal of the said University of Calcutta and signed by the said Chancellor or Vice-Chancellor, in which the particulars so stated shall be declared.

Fees

XV. The said Chancellor, Vice-Chancellor, and Fellows shall have power to charge such reasonable fees for the Degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the Governor General of India in Council, shall from time to time see fit to impose. Such fees shall be carried to

**Annual
counts.**

one general Fee Fund for the payment of expenses of the said University, under the direction^s and regulations of the Governor General of India in Council, to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said Governor General of India in Council may direct.

ACT No. III OF 1857.

1. *Laws repealed.*
2. *Cattle doing damage to land may be seized and impounded.*
3. *Where pounds shall be established.*
4. *Control and management of pounds.*
5. *Seizures to be registered. Pound-keeper to take charge of and feed cattle.*
6. *Fines.*
7. *Procedure, if owner appear and claim the Cattle.*
8. *Procedure, if cattle be not claimed within a specified time.*
9. *Procedure, if owner appear and refuse or omit to pay the fines and expenses. Proviso.*
10. *Police Officers and pound-keepers not to purchase Cattle at a sale under this Act.*
11. *Disposal of sale proceeds, fines, and expenses.*
12. *Fines and unclaimed proceeds of sales to form a fund for the payment of pound-keepers, &c.*
13. *Penalty for forcibly opposing the seizure of Cattle or rescuing the same.*
14. *Owner may prefer complaint to Magistrate within ten days from date of seizure of his Cattle. Procedure. Damages for illegal seizure. Moonsiffs and others may be invested with power to adjudicate under this Section.*
15. *Impounding of Cattle doing damage to roads, embankments, &c.*
16. *Impounding of stray Cattle, the owners of which are unknown.*
17. *Recovery of penalty for mischief committed by causing Cattle to trespass.*
18. *Penalty for damage caused to land or crops by pigs. Application of fines.*
19. *Saving of right of parties to institute a suit for the recovery of damages in any competent Court. Proviso.*
20. *Local Government, with the sanction of the Governor General in Council, may exclude any district, &c., from the operation of this Act.*
21. *Interpretation.*
22. *Commencement of Act.*

An Act relating to Trespasses by Cattle.

WHEREAS loss and injury are suffered by cultivators and occupiers of land from damage done to crops and other produce of land by the trespass of Cattle; and whereas damage is done to the sides and slopes of public roads and embankments by cattle trespassing thereon; and whereas it is expedient to authorize the seizure and detention of Cattle doing damage as aforesaid, and also to make provision for the disposal of cattle found straying in any public place: It is enacted as follows:—

Laws repealed.

I Section IV Regulation V 1830 of the Bengal Code, Sections XII and LII Regulation XI. 1816 of the Madras Code, and such parts of Sections XIX, XLV, and LIII Regulation XII. 1827 of the Bombay Code as authorize the Magistrates or Police Officers to take charge and dispose of stray Cattle, are hereby repealed.

Cattle doing damage to land may be seized and impounded.

II. It shall be lawful for the cultivator or occupier of any land to seize or cause to be seized any cattle trespassing on such land, and doing damage to such land or any crop or produce thereon, and to convey them without unnecessary delay to the pound established for the village or township in which the land is situate. Village and other Police Officers, when called upon, shall give their aid to cultivators and occupiers making such seizures.

Where pounds shall be established.

III. Pounds shall be established at the thannahs or district Police stations, and at such other places as the Magistrate, under the orders of the local Government, may determine. The village or villages by which every pound is to be used shall be determined and notified by the Magistrate.

Control and management of pounds.

IV. † The pounds shall be under the control of the Magistrate of the district, and for each pound a pound-keeper shall be appointed, who shall keep such registers and furnish such returns as the local Government shall direct. Provided, that in the Presidencies of Fort St. George and Bombay, the

* This Section has been modified by Act XXII, 1861, Sec. VI.

† This Section has been modified by Act V, 1860.

heads of villages and Police patells shall be ex-officio the keepers of village-pounds.

V. When Cattle are brought to a pound, the pound-keeper shall enter in his register the number and description of the animals, the name and residence of the seizer, and the name and residence of the owner if known, and shall give a copy of the entry to the seizer. The pound-keeper shall take charge of and feed the Cattle, until disposed of as hereinafter directed.

Seizures to be registered. Pound-keeper to take charge of and feed cattle.

VI. For every head of Cattle impounded as aforesaid, a fine shall be levied according to the following scale :—

Fines.

Annas.

Camel or Buffaloe... .. 8

Horse or Trotto, Bull, Bullock or Cow ... 4

Calf or Ass 2

Sheep or Goat 1

and no Cattle shall be released by a pound-keeper without the payment of such fine, unless the release be ordered by competent authority.

VII. If the owner appear and claim the Cattle, they shall be delivered to him on payment of the prescribed fine together with the expense of feeding the Cattle at such rates as may from time to time be fixed by the Magistrate ; and the owner, on taking back his Cattle, shall sign a receipt for them in the register kept by the pound-keeper. A Schedule of the fines and of the rates of charge for feeding Cattle shall be stuck up in a conspicuous place on or near to every pound.

Procedure, if owner appear and claim the Cattle.

VIII. If the Cattle be not claimed within seven days from the date of their being impounded, the pound-keeper shall make his report to the Darogah or district Police Officer, who shall stick up in a conspicuous part of the Police Office a notice containing a statement of the number and description of the Cattle, the place where they were seized, and the place where they are impounded, and shall cause proclamation of the same to be made by beat of drum in the village, and at the market place, nearest to the place of seizure. If

Procedure, if cattle be not claimed within a specified time.

the Cattle be not claimed within seven days from the date of the notice, they shall be sold by public auction by the Darogah or district Police officer or an officer of his establishment deputed for the purpose.

Procedure, if owner appear and refuse or omit to pay the fines and expenses.

Proviso.

Police Officers and pound-keepers not to purchase cattle at a sale.

Disposal of sale proceeds, fines, and expenses.

IX. If the owner appear, and refuse or omit to pay the fines and expenses, the Cattle of as many of them as may be necessary, shall be sold by public auction for the recovery of such fines and expenses by the Darogah or other Officer as aforesaid ; and the remaining Cattle and the balance of the purchase money, if any, shall be delivered to the owner, together with an account showing the number of Cattle seized, the time during which they have been impounded, the charge for fines and expenses, the number of Cattle sold, the proceeds of sale, and the manner in which those proceeds have been disposed of ; and the owner shall grant a receipt for the Cattle delivered to him and for the balance of the purchase money paid to him (if any) according to such account. Provided always, that, if a complaint against the seizure shall have been preferred under the provisions of Section XIV of this Act, no sale shall be made until the case shall have been decided, nor otherwise than according to the order which may be passed in such case.

X. Police Officers and pound-keepers are prohibited from becoming, directly or indirectly, purchasers of any Cattle at a sale under this Act.

XI. When Cattle are sold under the provisions of this Act, the fines leviable and the expenses of feeding, together with the expenses of sale, if any, shall be deducted from the sale proceeds. The fines so recovered, as well as all fines received by the pound-keepers under Section VII, shall be transmitted to the Magistrate by the Darogah, or district Police Officer. The expenses of feeding realized by sale shall be paid over to the pound-keepers, who shall also retain and appropriate all sums received by them on account of such expenses under Section VII. The surplus proceeds of the sale of unclaimed Cattle shall be transmitted to the Magistrate, who shall hold them in deposit for three months, and if no

claim to them be preferred and established within that period, shall at its expiry dispose of them as hereinafter provided.

XII. The sums received on account of fines and the unclaimed proceeds of the sale of unclaimed Cattle shall form a fund which shall be available for the payment of any salaries which may be allowed to pound-keepers under the orders of the local Government, or of expenses incurred for the construction and maintenance of pounds, or for any other purpose connected with the execution of this Act.

Fines and unclaimed proceeds to form a fund for payment of pound-keepers, &c.

XIII. Every person who shall forcibly oppose the seizure of Cattle doing damage to land or to crops or other produce of land, or shall forcibly rescue the same after seizure, either from a pound or from the seizer when conveying or about to convey them to a pound, shall be liable for such offence to imprisonment, with or without labor, for a period not exceeding six months, or to a fine not exceeding five hundred Rupees, or to both. Offences under this Section shall be dealt with by the Police Officers according to the provisions of Section XXV Regulation XX. 1817 of the Bengal Code, Section XXVII Regulation XII. 1816 of the Madras Code, and Section XLIII. Regulation XII. 1827 of the Bombay Code.*

Penalty for forcibly opposing seizure or rescuing cattle.

XIV. † Any person whose Cattle shall have been seized and detained as doing damage to land or any crop or produce thereon, may prefer a complaint against the seizure, at any time within ten days from the date thereof, to the Magistrate, or to any Joint, Deputy or Assistant Magistrate, or other officer having criminal jurisdiction, authorized to receive and try charges without reference by the Magistrate. The complaint may be either verbal, in which case the substance of it shall be taken down in writing by the Magistrate or other officer as aforesaid, or written upon plain paper, and shall be preferred by the complainant in person, or by an agent personally acquainted with the circumstances. The Magistrate or other officer as aforesaid,

Owner may complain to Magistrate within ten days from date of seizure. Procedure.

* This Section has been modified by Act V, 1860.

† This Section has been modified by Act V, 1860, and by Act XVII, 1862, Schedule.

if on examination of the complainant or his agent he shall see reason to believe the complaint to be well founded, shall summon the party complained against, and shall proceed to make a summary enquiry into the case. If the seizure be adjudged illegal, the Magistrate or other officer as aforesaid shall award to the complainant such damages, not exceeding in any case the sum of one hundred Rupees, as he may deem to be a reasonable compensation for any loss or injury sustained from the unlawful seizure and detention, together with all expenses incurred by the complainant in procuring the release of the Cattle ; or, if the Cattle have not been released, the Magistrate or other officer as aforesaid, in addition to the award of damages, shall make an order for their release, and shall direct that the fines and expenses leviable under this Act shall be paid by the party who made the seizure. Moon-siffs and other Judicial Officers having original jurisdiction, and not invested with criminal powers, may be specially invested by the local Government with the power of receiving and trying complaints under this Section, and in the exercise of such powers shall be subject to the same rules as Assistants and other officers subordinate to the Magistrate.

Moon-siffs, &c.,
may be em-
powered to ad-
judicate

XV. Persons in charge of public roads, canals, embankments, and the like, may seize or cause to be seized any Cattle doing damage to the sides or slopes of such roads, canals, embankments, and the like ; and all the foregoing provisions of this Act shall be applicable to such seizures.

Impounding of
cattle doing
damage to roads,
embankments,
&c.

XVI. Village and other Police Officers shall convey to the pounds established under Section III of this Act all Cattle, the owners of which are unknown, found straying in any public road or place ; and the provisions of this Act relative to the detention, release, and sale of Cattle seized as trespassing and doing damage, shall be applicable to all Cattle impounded as aforesaid.

Impounding of
stray cattle, the
owners of which
are unknown.

XVII. When any person commits mischief by causing Cattle to trespass on any land, the penalty provided for such offence may be adjudged on the complaint of any person

Recovery of
penalty for mis-
chief committed
by causing cattle
to trespass

authorized to seize Cattle under Section II of this Act, or of any person who may have made advances for the cultivation of the land and delivery of the produce; and any fine which shall be so adjudged may be recovered by sale of the Cattle by which the trespass was committed, or any portion of them, whether the Cattle were seized in the act of trespassing or not, and whether such Cattle are the property of the person convicted of the offence, or were only in his charge when the trespass was committed.

XVIII. Any person, being an owner or keeper of pigs, who, through neglect or otherwise, shall damage or cause or permit to be damaged any land or any crop or produce of land by allowing pigs to trespass thereon, shall be liable for such offence to a fine not exceeding ten Rupees. All sums recovered under this and the last preceding Section may be appropriated, in whole or in part, to compensate the complainant for damage proved to the satisfaction of the Magistrate.

Penalty for
damage caused
to land or crops
by pigs.

XIX. Nothing contained in this Act shall be held to prohibit any person, whose crops or other produce of land shall have been damaged by trespass of Cattle, from instituting a suit for the recovery of damages in any competent Court. Provided, that any compensation which may have been paid to any such person by order of the Magistrate shall be set off and deducted from any sum claimed by or awarded to him as damages in such suit.

Saving of right
to sue for da-
mages

XX. The local Government, with the sanction of the Governor General in Council, may exclude from the operation of this Act any district or tract of country to which its provisions may be judged unsuitable.

Government
may exclude any
district from
the operation of
this Act.

XXI. In the construction of this Act, words importing the singular number shall include the plural, and words importing the plural number shall include the singular; words importing the masculine gender shall include females; the word "Magistrate" shall include a Joint Magistrate, or other officer lawfully exercising the powers of a Magistrate; the expression "Darogah or District Police Officer" shall, in the North

Interpretation.

Western Provinces of the Presidency of Fort William, include a Tuhseeldar or Naib Tuhseeldar entrusted with Police powers.

Act when to
commence

XXII. This Act shall commence and take effect from and after the first day of May 1857.

ACT NO. IV OF 1857.

1. *Laws repealed.*
2. *Municipal Duty on Tobacco intended for consumption in Bombay.*
3. *Municipal Duty when payable.*
4. *Duty, if not paid on importation, to be paid on removal from warehouse for consumption. Remission of Municipal Duty on re-exportation.*
5. *Bombay a warehousing Port for Tobacco.*
6. *Powers for collecting and enforcing payment of the Municipal Duty.*
7. *Tobacco not to be imported otherwise than by Sea. Landing places to be prescribed.*
8. *Exemption from Duty.*
9. *Permit necessary for removal of Tobacco. Proviso.*
10. *No Permit for removal from warehouse of less than a bale. Proviso.*
11. *License for retail sale of Tobacco.*
12. *What to be deemed a retail sale.*
13. *Retail sale to be only at the place mentioned in the license. Name of licensed dealer to be affixed to shop.*
14. *Monthly returns of stock to be made by retail dealers.*
15. *Retail dealer to make entry in a book, of weight, &c, of all Tobacco received. Inspection of book.*
16. *Search Warrant.*
17. *Power to arrest persons and search vehicles, &c.*
18. *Confiscation of Tobacco illegally imported, removed, &c. Mitigation of penalty.*
19. *Penalty for illegal importation, removal, sale, or possession, fine and revocation of license.*
20. *Lery of fines and adjudication and sale of confiscations.*
21. *Interpretation.*

An Act to amend the law relating to the duties payable on Tobacco, and the retail sale and warehousing thereof in the Town of Bombay.

WHEREAS it is expedient to amend the law relating to the duties payable on Tobacco and the retail sale and ware-

housing of that article in the Town of Bombay : It is hereby enacted as follows :—

I. Chapters V, VI, VII, and VIII of Regulation XXI. 1827 of the Bombay Code, and Act XXIV of 1850, are hereby repealed, but not so as to revive any other Regulation or Act thereby repealed.

Laws repealed.

II. All Tobacco, (except such small quantities as are hereinafter mentioned) imported from any place into the Town of Bombay and intended for consumption therein, shall be liable to a duty of seven Rupees and eight annas per maund of forty seers of eighty tolas to the seer, which duty is hereinafter called the Municipal Duty ; and such duty shall be leviable in addition to any Customs Duty prescribed by law.

Duty on Tobacco intended for consumption in Bombay

III. The said Municipal Duty may be paid at the option of the importer, either on the importation of the Tobacco or after it has been warehoused as hereinafter provided.

Duty payable when

IV. If the said Municipal Duty is not paid on importation, the Tobacco shall be warehoused in a public or licensed warehouse within the meaning of Act XXV of 1836 ; and the importer shall pay such duty on the said Tobacco on its removal from the warehouse for consumption in the said Town. When Tobacco so warehoused is re-exported to any place beyond the limits of the said Town, the whole of the said Municipal Duty shall be remitted.

Duty, if not paid on importation, to be paid on removal from warehouse. Remission on re-exportation.

V. The Port of Bombay shall, after the passing of this Act, be held to be a warehousing port within the meaning of Act XXV of 1836, so far as regards the warehousing of Tobacco ; and the provisions of the said Act, so far as the same are applicable, shall be applied to the warehousing of Tobacco in the said Town. The Import Duty in the said Act mentioned shall, as to Tobacco, include the Municipal Duty leviable under this Act.

Bombay to be a warehousing Port for Tobacco.

VI. The Commissioner of Customs, Salt, and Opium, and Officers of Customs, shall have all the same powers and authorities for collecting and enforcing payment of the said

Powers for collection of the Municipal Duty.

Municipal Duty, in addition to the powers and authorities specified in this Act, as they now have or shall have in respect of Duties of Customs.

Tobacco to be
imported only
by sea.

VII. It shall not be lawful, without the permission of the Commissioner of Customs, Salt and Opium, or other officer empowered by Government to grant such permission, to bring any Tobacco or any preparation thereof into Bombay otherwise than by sea, nor to land the same at any other landing places than such as may from time to time be prescribed by the Government of Bombay.

Exemption.

VIII. The foregoing provisions of this Act shall not be applicable to such small quantities of Tobacco (not exceeding in weight four seers of eighty tolas to the seer) as are intended for the private consumption of the importer.

Permit neces-
sary for removal
of Tobacco.

IX. It shall not be lawful to remove any Tobacco from one place to another within the said Town, nor to carry or convey the same on any thoroughfare in the said Town, nor to carry the same in any vessel or boat of less than forty candies burthen in any of the creeks or waters adjacent to the said Town, without a Permit from the Commissioner of Customs, Salt, and Opium, which Permit shall be in the form of Schedule A. to this Act annexed, or to the like effect : any such Permit shall be in force only between sunrise and sunset of the day for which it is granted. Provided always, that it shall be lawful to convey without a Permit any Tobacco so far as may be necessary for the lawful importation thereof according to the provisions of this Act, and also small quantities of Tobacco, not exceeding in weight four seers of eighty tolas to the seer, for personal or domestic use.

Proviso

No permit for
removal of less
than a bale. Pro-
viso as to refuse

X. No Permit shall be granted for the removal from warehouse of any quantity of Tobacco less than an entire bale or package. Provided that, when Tobacco is to be removed for consumption in the said Town, the Commissioner of Customs, Salt, and Opium may give permission to open any bale or package previous to removal, and to set aside such portion thereof as may be refuse or waste ; and the said

refuse or waste may be re-exported, under the rules for the re-export of Tobacco, at any time within one month from the date of such permission, or, if it be not so re-exported, may be destroyed by order of the Commissioner.

XI. It shall not be lawful for any person to sell or offer for sale by retail any Tobacco in the said Town, without a license from the Commissioner of Customs, Salt, and Opium, or other officer duly empowered by Government in that behalf, which license shall be in force for a period of twelve calendar months from the date thereof, unless the person to whom the license is granted shall be deprived thereof under the provisions of this Act. A Fee of one Rupee shall be paid for every such license.

License for the
retail sale of To-
bacco.

XII. Any sale of Tobacco not exceeding in weight fourteen seers of eighty tolas to the seer shall be deemed to be a retail sale within the meaning of this Act.

What to be
a retail sale.

XIII. It shall not be lawful for any licensed retail dealer in Tobacco to carry on the retail sale of the same, or to keep any store of the same, except at such shop or other premises as may be specified in his license; and the name of every retail dealer in Tobacco, together with the number of his license, shall be written or painted in English, Guzerati, and Maharatti, in plain and legible characters of not less than one inch in height, on a board to be affixed in a conspicuous manner in the front of the shop or premises where such retail sale is carried on.

Retail sale to
be only at the
licensed place.

XIV. Every retail dealer in Tobacco shall, on or before the tenth day of each month, make to the Commissioner of Customs, Salt, and Opium, or other officer as aforesaid, a separate return for each shop or place of sale for which he holds a license, showing the quantity of Tobacco on hand therein at the beginning of the preceding month, the quantity received during such month, and the persons from whom and the dates on which he received it, and the stock remaining at the close of such month; and any retail dealer who refuses or neglects to make such return, or makes a false

Monthly re-
turns of stock to
be made by retail
dealers.

return, shall be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred Rupees.

Retail dealer to make entry in a book, of the weight, &c., of all Tobacco received

XV. Every retail dealer in Tobacco shall, on the same day on which he shall receive any Tobacco into any such shop or place, enter in a book to be kept for that purpose the weight of such Tobacco, the day on which he receives the same, and the name of the person from whom and the place from which he receives it; and such book shall be open to the inspection of the Commissioner of Customs, Salt, and Opium, or other officer as aforesaid, or of any person authorized by the Commissioner or such officer to inspect the same; and the Commissioner or other officer or person as aforesaid inspecting the said book may make any minute therein, or any extract therefrom, which he shall think fit; and any retail dealer who neglects or refuses to comply with the provisions of this Section shall, for every offence, be liable to be deprived of his license by the said Commissioner or other officer as aforesaid, and to pay a fine not exceeding two hundred Rupees.

Warrant for search.

XVI. The Commissioner of Customs, Salt, and Opium, or other officer as aforesaid, may issue a warrant under his hand and seal to any public officer, commanding him to enter and search, between sunrise and sunset, any building or place to be specified in the warrant in which Tobacco may be deposited under the provisions of this Act, or in which the Commissioner or other officer as aforesaid has been credibly informed, (which information shall be taken down in writing) that Tobacco is deposited contrary to the provisions of this Act, and to seize and take away from thence any Tobacco or other articles subject to confiscation under this Act.

Power to arrest persons and to search vehicles, &c.

XVII. The Commissioner of Customs, Salt, and Opium, or other officer as aforesaid, or any public officer authorized by the Commissioner or such officer, may arrest and detain any person carrying or having charge of any Tobacco liable to confiscation under this Act, and may detain and search any vessel

or package, and any boat or vehicle, containing or conveying, or supposed to contain or convey, any such Tobacco.

XVIII. All Tobacco imported into the said Town or removed from one place to another, or kept within the said Town, or found in the possession of any person in the said Town selling or offering any portion thereof for sale contrary to the provisions of this Act, and every vessel in which such Tobacco is contained, and every vehicle, boat, or animal employed with the consent and knowledge of the owner or his servant in conveying the same—shall be liable to confiscation. Provided always, that it shall be lawful for the adjudicating officer to mitigate the penalty of confiscation herein provided, by commuting the same to the payment of any fine not exceeding the value of the goods liable to confiscation; and every such fine may be enforced, if necessary, by the sale of the goods liable to confiscation.

Confiscation of Tobacco illegally imported, &c.

XIX. Any person, who shall illegally import, remove, or sell in the said Town any Tobacco, or who shall knowingly have in his possession any Tobacco subject to confiscation under this Act, shall be liable to a fine not exceeding ten times the value of such Tobacco; and, if the offender is a licensed retail dealer, he shall be liable to be deprived of his license by the Commissioner of Customs, Salt, and Opium, or other officer as aforesaid.

Penalty for illegal importation, removal, sale, or possession.

XX. All confiscations and fines under this Act may be adjudicated and levied by any Magistrate of Police for the Town of Bombay. Goods adjudged liable to confiscation shall be sold under warrant of the Magistrate.

Levy of fines and sale of confiscations.

XXI. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the context repugnant to such construction:—

Interpretation.

The words "Town of Bombay" shall include all places within the Islands of Bombay and Colaba.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

SCHEDULE A.

Form of Permit.

No.

A. B. has been permitted to remove from (*Custom House or licensed warehouse or shop No. situated in Kabaulvie street to warehouse or shop No. in Bazar street*) the under-mentioned quantity of Tobacco between sunrise and sunset on the day of in the year .

(Signed) _____

Commissioner of Customs, Salt, and Opium.

ACT NO V OF 1857.

1. *Power to break up streets, &c., under superintendence, and to open drains*
2. *Company not to enter on private land without consent.*
3. *Notice to be served before breaking up streets or opening drains.*
4. *Streets or drains not to be broken up, except under superintendence of persons having control of the same. If persons having the control fail to superintend, Company may proceed with the work.*
5. *Streets broken up to be re-instated without delay.*
6. *Penalty for delay in re-instating streets.*
7. *In case of delay, other parties may re-instate and recover the expenses. Expense how to be ascertained and recovered.*
8. *Power to enter buildings for ascertaining quantity of Gas consumed.*
9. *Recovery of rent due for Gas.*
10. *Power to take away pipes when supply of Gas discontinued.*
11. *Meters not liable to distress for rent, &c.*
12. *Penalty for fraudulently using Gas.*
13. *Penalty for wilfully damaging pipes.*
14. *Satisfaction for accidentally damaging pipes.*
15. *Penalty for causing water to be corrupted. Daily penalty during the continuance of the offence.*
16. *Daily penalty during escape of Gas after notice.*

17. *Penalty if water be fouled by Gas.*
18. *Power to examine Gas-pipes to ascertain cause of water being fouled.*
19. *Expenses to abide result of examination.*
20. *How expenses to be ascertained.*
21. *Liability to indictments for nuisance.*
22. *Copies of the original Deed of Association and of all Rules, &c., to be kept for inspection at the Office of the Company in Calcutta, and in the Office of the Registrar of Joint Stock Companies, or the Keeper of the Records of the Supreme Court at Fort William.*
23. *Service of Process.*
24. *Recovery of penalties, &c.*
25. *Levy by distress.*
26. *No distress unlawful for want of form, &c.*
27. *Interpretation.*

AN ACT to confer certain powers on the Oriental Gas Company,
Limited.

WHEREAS a Joint Stock Company has been lately formed for the purpose of introducing Gas-works into India, which Company having been completely registered in England under the Act of Parliament of the eighth year of the reign of her present Majesty, Cap. 110, has since been registered in England under "The Joint Stock Companies' Act, 1856," with limited liability, and has duly obtained a certificate of Incorporation under the name of the Oriental Gas Company, Limited; And Whereas the said Company has erected Gas-works on land granted for that purpose by Government in the vicinity of the Town of Calcutta, and is engaged in the preparation of apparatus and materials for the manufacture and supply of Gas for lighting the said Town; And Whereas it is expedient that powers and facilities should be given to the said Company to enable them to carry out their undertaking of lighting with Gas the said Town of Calcutta, which powers and facilities may hereafter be extended to the operations of the said Company in other Towns and places: It is enacted as follows:—

I. In the Town of Calcutta and its environs, and in any other Town or place to which the provisions of this Act

Power to break
up street, &c.,
under superin-

tendence, and to open drains.

may hereafter be extended by a law to be passed for that purpose, the Oriental Gas Company, Limited, under such superintendence as is hereinafter specified, may open and break up the soil and pavement of the several streets and bridges, and may open and break up any sewers, drains, or tunnels within or under such streets and bridges, and lay down and place within the same limits pipes, conduits, service-pipes, and other works, and from time to time repair, alter, or remove the same, and also make any sewers that may be necessary for carrying off the washings and waste liquids which may arise in the making of the Gas ; and, for the purposes aforesaid, may remove and use all earth and materials in and under such streets and bridges ; and they may in such streets erect any pillars, lamps and other works, and do all other acts which the said Company shall from time to time deem necessary for supplying Gas to the inhabitants of the said Town of Calcutta and its environs, or other Town or place as aforesaid, doing as little damage as may be in the execution of the powers hereby granted, and making compensation for any damage which may be done in the execution of such powers.

Company not to enter on private land without consent.

II. Provided always, that nothing herein shall authorize or empower the said Company to lay down or place any pipe or other works, into, through, or against any building, or in any land not dedicated to public use, without the consent of the owners and occupiers thereof ; except that the said Company may at any time enter upon and lay or place any new pipe in the place of an existing pipe, in any land wherein any pipe has been already lawfully laid down or placed in pursuance of this Act, and may repair or alter any pipe so laid down.

Notice to be given in writing of intention to break up street, &c.

III. Before the said Company proceed to open or break up any street, bridge, sewer, drain, or tunnel, they shall give to the Municipal Commissioners for the Town of Calcutta, or other persons under whose control or management the same may be, or to their Clerk, Surveyor, or other officer, notice in writing of their intention to open or break up the same, not

less than three clear days before beginning such work; except in cases of emergency arising from defects in any of the pipes or other works, and then so soon as is possible after the beginning of the work, or the necessity for the same shall have arisen.

IV. No such street, bridge, sewer, drain, or tunnel shall, except in the cases of emergency aforesaid, be opened or broken up, except under the superintendence of the persons having the control or management thereof, or of their officer, and according to such plan as shall be approved of by such persons or their officer, or in case of any difference respecting such plan, then according to such plan as shall be determined by a Magistrate; and such Magistrate may, on the application of the persons having the control or management of any such sewer or drain, or their officer, require the said Company to make such temporary or other works as they may think necessary for guarding against any interruption of the drainage during the execution of any works which interfere with any such sewer or drain. Provided always, that, if the persons having such control or management as aforesaid, and their officer, fail to attend at the time fixed for the opening of any such street, bridge, sewer, drain, or tunnel, after having had such notice of the said Company's intention as aforesaid, or shall not propose any plan for breaking up or opening the same, or shall refuse or neglect to superintend the operation, the said Company may perform the work specified in such notice without the superintendence of such persons or their officer.

No street or drains to be broken up, except under superintendence, or on failure to superintend.

V. When the said Company open or break up the road or pavement of any street or bridge, or any sewer, drain, or tunnel, they shall, with all convenient speed, complete the work for which the same shall be broken up, and fill in the ground, and re-instate and make good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, and carry away the rubbish occasioned thereby; and shall at all times, whilst any such road or pavement shall

Streets broken up to be re-instated without delay.

be so opened or broken up, cause the same to be fenced and guarded, and shall cause a light, sufficient for the warning of passengers, to be set up and maintained against or near such road or pavement where the same shall be open or broken up, every night during which the same shall be continued open or broken up; and shall keep the road or pavement which has been so broken up in good repair for three months after replacing and making good the same, and for such further time, if any, not being more than twelve months in the whole, as the soil so broken up shall continue to subside.

Penalty for delay in restoring street.

VI. If the said Company open or break up any street, or bridge, or any sewer, drain, or tunnel, without giving such notice as aforesaid, or in a manner different from that which shall have been approved of or determined as aforesaid, or without making such temporary or other works as aforesaid, when so required, except in the cases in which the said Company are hereby authorized to perform such works without any superintendence or notice; or if the said Company make any delay in completing any such work, or in filling in the ground or re-instating and making good the road or pavement, or the sewer, drain, or tunnel so opened or broken up, or in carrying away the rubbish occasioned thereby; or if they neglect to cause the place where such road or pavement has been broken up to be fenced, guarded, and lighted, or neglect to keep the road or pavement in repair for the space of three months next after the same shall have been made good, or such further time as aforesaid, they shall forfeit to the persons having the control or management of the street, bridge, sewer, drain, or tunnel, in respect of which such default is made, a sum not exceeding fifty Rupees for every such offence, and they shall forfeit an additional sum, not exceeding fifty Rupees, for each day during which any such delay as aforesaid shall continue after they shall have received notice thereof.

In case of delay, other parties may re-instate

VII. If any such delay or omission as aforesaid take place, the persons having the control or management of the

street, bridge, sewer, drain, or tunnel, in respect of which such delay or omission shall take place, may cause the work so delayed or omitted to be executed; and the expense of executing the same shall be repaid to such persons by the said Company; and the amount of such expense shall, in case of any dispute about the same, be ascertained and recovered in Calcutta and in any other Town or place subject to the jurisdiction of any of Her Majesty's Courts of Judicature, in the manner in which expenses are ascertained and recovered under Act XIV of 1856, and in any Town or place not within the jurisdiction of any of Her Majesty's Courts, in the same manner as damages are recoverable under this Act.

and may recover
expenses.

VIII. The Clerk, Engineer, or other officer duly appointed for the purpose by the said Company, may, at all reasonable times, enter any buildings or place lighted with Gas supplied by the said Company, in order to inspect the meters, fittings, and works for regulating the supply of Gas, and for the purpose of ascertaining the quantity of Gas consumed or supplied; and if any person hinder such officer as aforesaid from entering and making such inspection as aforesaid at any reasonable time, he shall, for every such offence, forfeit to the said Company a sum not exceeding fifty Rupees.

Power to enter
buildings to as-
certain the quan-
tity of Gas con-
sumed.

IX. If any person supplied with Gas, or any person to whom any meter or fitting shall have been let for hire by the said Company, neglect to pay the rent due for the same to the said Company, the said Company may stop the Gas from entering the premises of such person, by cutting off the service-pipes, or by such means as the said Company shall think fit, and recover the rent due from such person, together with the expenses of cutting off the Gas, by action in any Court of competent jurisdiction.

Recovery of
rent due for Gas.

X. In all cases in which the said Company are authorized to cut off and take away the supply of Gas from any house or building or premises under the provisions of this Act, the said Company, their agents or workmen, after giving

Power to take
away pipes,
when supply of
Gas disconti-
nued.

twenty-four hours' previous notice to the occupier, may enter into any such house, building, or premises, between the hours of nine in the forenoon and four in the afternoon, and remove and carry away any pipe, meter, fittings, or other works, the property of the said Company.

Meters not liable to distress for rent, &c

XI. Any meter or fitting let for hire by the said Company shall not be subject to distress for rent or revenue or any rate due upon the premises where the same may be used, nor be taken in execution under any process of a Court of law or equity, or any proceeding in Insolvency against the person in whose possession the same may be.

Penalty for fraudulently using Gas

XII. Every person who shall lay, or cause to be laid, any pipe to communicate with any pipe belonging to the said Company, without their consent, or shall fraudulently injure any such meter as aforesaid, or who, in case the Gas supplied by the said Company is not ascertained by meter, shall use any burner other than such as has been provided or approved of by the said Company, or of larger dimensions than he has contracted to pay for, or shall keep the lights burning for a longer time than he has contracted to pay for, or shall otherwise improperly use or burn the Gas, or shall supply any other person with any part of the Gas supplied to him by the said Company, shall forfeit to the said Company the sum of fifty Rupees for every such offence, and also the sum of twenty Rupees for every day such pipe shall so remain, or such works or burner shall be so used, or such excess be so committed or continued, or such supply furnished; and the said Company may take off the Gas from the house and premises of the person so offending, notwithstanding any contract which may have been previously entered into.

Penalty for wilfully damaging pipes.

XIII. Every person who shall wilfully remove, destroy, or damage any pipe, pillar, post, plug, lamp, or other work of the said Company for supplying Gas, or who shall wilfully extinguish any of the public lamps or lights, or waste or improperly use any of the Gas supplied by the said Company,

shall, for each such offence, forfeit to the said Company any sum not exceeding fifty Rupees, in addition to the amount of the damage done.

XIV. Every person who shall carelessly or accidentally break, throw down, or damage any pipe, pillar, or lamp belonging to the said Company or under their control, shall pay such sum of money by way of satisfaction to the said Company for the damage done, not exceeding fifty Rupees, as any Magistrate shall think reasonable.

Satisfaction for
accidentally da-
maging pipes.

XV. If the said Company shall at any time cause or suffer to be brought or to flow into any stream, reservoir, aqueduct, pond, or place for water, or into any drain communicating therewith, any washing or other substance produced in making or supplying Gas, or shall wilfully do any act connected with the making or supplying of Gas, whereby the water in any such stream, reservoir, aqueduct, pond, or place for water shall be fouled, the said Company shall forfeit for every such offence a sum not exceeding one thousand Rupees; and they shall forfeit an additional sum not exceeding five hundred Rupees for each day during which such washing or other substance shall be brought or shall flow, or the act by which such water shall be fouled shall continue, after the expiration of twenty-four hours from the time when notice of the offence shall have been served on the said Company, by the person into whose water such washing or other substance shall be brought or shall flow, or whose water shall be fouled thereby; and such penalties shall be paid to such last-mentioned person.

Causing water
to be corrupted.
Daily penalty
during the con-
tinuance of the
offence.

XVI. Whenever any Gas shall escape from any pipe, laid down or set up by or belonging to the said Company, they shall, immediately after receiving notice thereof in writing, prevent such Gas from escaping; and in case the said Company shall not, within twenty-four hours next after service of such notice, effectually prevent the Gas from escaping, and wholly remove the cause of complaint, they shall for every such offence forfeit the sum of fifty Rupees for each day

Daily penalty
during escape of
Gas after notice.

during which the Gas shall be suffered to escape, after the expiration of twenty-four hours from the service of such notice

Penalty if
water be fouled
by Gas

XVII Whenever any water shall be fouled by the Gas of the said Company, they shall forfeit to the person whose water shall be so fouled for every such offence a sum not exceeding two hundred Rupees, and a further sum, not exceeding one hundred Rupees, for each day during which the offence shall continue, after the expiration of twenty-four hours from the service of notice of such offence

Power to ex-
amine Gas-pipes
to ascertain
cause of water
being fouled

XVIII For the purpose of ascertaining whether such water be fouled by the Gas of the said Company, the person to whom the water supposed to be fouled shall belong may dig up the ground, and examine the pipes, conduits, and works of the said Company, provided that such person, before proceeding so to dig and examine, shall give twenty-four hours' notice in writing to the said Company of the time at which such digging and examination is intended to take place, and shall give the like notice to the persons having the control or management of the road, pavement, or place where such digging is to take place, and they shall be subject to the like obligation of re-mending the said road and pavement, and the same penalties for delay, or any nonfeasance or misfeasance therein as are heretofore provided with respect to road and pavements broken up by the said Company, for the purpose of laying their pipes

Expenses to
abide result of
examination

XIX If upon any such examination it appear that such water has been fouled by any Gas belonging to the said Company, the expenses of the digging, examination, and repair of the street or place disturbed in any such examination shall be paid by the said Company, but if upon such examination it appear that the water has not been fouled by the Gas of the said Company, the person causing such examination to be made shall pay all such expenses, and shall also make good to the said Company any injury which may be occasioned to their works by such examination

XX The amount of the expenses of every such examination and repair, and of any injury done to the said Company, shall, in case of any dispute about the same, together with the costs of ascertaining and recovering the same, be ascertained and recovered in the manner prescribed for the ascertainment and recovery of expenses in Section VII of this Act

How expenses
to be ascer-
tained 38

XXI Nothing in this Act contained shall prevent the said Company from being liable to an indictment for nuisance, or to any other legal proceedings to which they may be liable in consequence of making or supplying Gas

Liability to in-
dictments for
nuisance

XXII A copy of the original Deed of Association of the said Company, and of every other instrument registered under the said "Joint Stock Companies' Act, 1856," as constituting the Regulations of the said Company, and a copy of every special resolution of a General Meeting whereby any change shall have been, or at any time shall be made in the Regulations of the said Company, shall be kept at the Office of the said Company in Calcutta, and shall there be open to the inspection of all persons during the usual hours of business of the said Office, and a copy of such original Deed of Association, and of every other such instrument, and of every special resolution as aforesaid, shall also be deposited by the said Company as soon as it can be done after the passing of this Act, or after the making of any such special resolution hereafter to be made, in the office of the Registrar of Joint Stock Companies, or if there be no such Officer, in the office of the Keeper of the Records of the Supreme Court of Judicature at Fort William, and shall there be filed, and an examined copy of any such filed copy as aforesaid, certified by and under the hand of the Registrar of Joint Stock Companies, or of the Keeper of the Records of the said Supreme Court, shall be good and sufficient evidence of each such original deed, instrument, or special resolution, in all actions, suits, and proceedings whatsoever, whether Civil or Criminal, to be had in any Court of Justice or before any Magistrate, or Revenue or other Officer, and whether acting

Copies of the
original Deed of
Association and
of all rules, &c.,
to be kept for in-
spection at the
Office of the
Company in Cal-
cutta, and in one
of two other
places.

judicially or in any proceeding preliminary to a judicial inquiry, throughout the Territories of the East India Company.

Service
process, of

XXIII. All services of mesne or other process, and all notices whatsoever, which, by law or by the practice of any Court wherein the said Company shall sue or be sued, are required to be made, served, or given for any purpose whatsoever to the said Company, shall and may be made, served, and given, in addition to all ways and means by which the same may otherwise be legally made, served, and given, by leaving the same addressed to the Managing Agent of the said Company at the Office in Calcutta of the said Company.

Recovery
penalties, &c. of

XXIV. All penalties and forfeitures imposed by this Act and all damages and expenses, the recovery of which is not specially provided for, may be recovered by summary proceeding before a Magistrate.

Levy
distress, by

XXV. All penalties, forfeitures, damages, and expenses adjudged due under this Act, if the amount be not otherwise paid, may be levied by distress and sale of the goods and chattels of the party liable to pay the same, and the overplus arising from such goods and chattels, after satisfying such amount and the expenses of the distress and sale, shall be returned on demand to the party whose goods shall have been distrained; or instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or any part of any penalties, forfeitures, damages, or expenses imposed or incurred under the provisions of this Act, the person claiming such penalty, forfeiture, damage, or expenses, may sue the person liable to pay the same in any Court of competent jurisdiction.

No distress un-
lawful for want
of form, &c.

XXVI. No distress levied by virtue of this Act shall be deemed unlawful, nor shall any party making the same be deemed a trespasser on account of any defect or want of form in the summons, conviction, warrant of distress, or other proceeding relating thereto, nor shall any such party be deemed a trespasser *ab initio* on account of any irregularity afterwards committed by him; but all persons aggrieved by such

irregularity may recover full satisfaction for the special damage in any Court of competent jurisdiction.

XXVII. The following words and expressions used in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say) —

Interpretation

Words importing the singular number only shall include the plural number, and words importing the plural number only shall include also the singular number.

Words importing the masculine gender shall include females.

The word "person" shall include a corporation, whether aggregate or sole.

The word "street" shall include any square, court, or alley, highway, lane, road, thoroughfare, or public passage or place.

The word "Magistrate" shall include any Magistrate of Police, and any Joint Magistrate or other person lawfully exercising the powers of Magistrate, acting at or for the place or district where the matter requiring the cognizance of any such Magistrate arises.

ACT NO. VI OF 1857 *

1. *Laws repealed.*

2. *Land may be taken by Government under the provisions of this Act after declaration made that it is required for a public purpose.*

3. *After declaration, Collector shall be directed to take order for acquisition of land as hereinafter provided*

4. *Collector shall cause the land to be marked out and measured, and a plan to be made of the same; and shall give notice to all persons interested in the land.*

5. *Collector to enquire into the value of the land, and the amount of compensation to be awarded. Collector in certain cases to make award which shall be conclusive. Postponement of enquiry.*

6. *If no claimant attends, or if Collector and persons interested are unable to agree as to the amount of compensation, the dispute shall be referred to arbitrators.*

* See Act II, 1861, which was passed for the amendment of this Act.

7 *In cases of conflicting claims, the person in possession shall be held for some purposes to be the person interested in the land.*

8 *After Collector's award or reference to arbitration, possession may be taken and the land shall be vested absolutely in the Government.*

10. *Appointment of arbitration*

11 *If no claimant attends, or if no arbitrator is appointed by the persons interested, the arbitrator appointed by the Collector shall proceed to arbitrate. Proviso.*

12. *Appointment of a third arbitrator*

13 *Arbitrator refusing or becoming incapable to act, &c.*

14 *The arbitrators may by consent determine the proportions in which the persons interested are entitled to share in the amount of compensation awarded*

15 *By consent arbitrators may be appointed to apportion the compensation in cases where the amount thereof has been agreed upon or has been settled by arbitration*

16 *Collector to exercise certain powers for securing attendance of arbitrators and completion of an award*

17 *In default of award within a specified period, other arbitrators may be chosen*

18 *Collector to furnish information to the arbitrators, and to enforce the attendance and examination of witnesses, &c.*

19. *Witnesses to be examined upon oath, &c. before arbitrators*

20 *Award of the arbitrators*

21 *Arbitrators' fees*

22 *Costs*

23 *Proceedings of the arbitration to be deposited in the Collector's Office. Copy of award signed, &c., by him to be evidence*

24 *Compensation to include damage done to adjoining land*

25. *If compensation be awarded for damage sustained as well as for value of the land, the amount of damage shall be specified separately in the award.*

26 *Proceeding where land paying revenue to Government is taken.*

27 *Amount of compensation when and how to be paid.*

28 *Payment of compensation to whom to be made. Proviso.*

29 *Payment of compensation may in certain cases be deferred. Amount to be held in deposit until an order of Court is obtained for payment thereof. What Court to have jurisdiction to make the order*

30. *In certain cases the Small Cause Court may order payment*

31. *Reversal or alteration of award. Limitation of suits to set aside an award.*

32. *A part of a house or building not to be taken*
33. *When land is needed for a road, canal, &c., the general direction of the line shall be declared.*
34. *After declaration, persons authorized may enter upon the land and make a survey. Line of road may be marked out. Land may be cleared. Previous notice of entry to be given to occupants of houses, &c.*
35. *Account of damage to be taken and payment to be offered.*
36. *Obstruction to setting out line of works, &c.*
38. *Trustees, Committees of lunatics, &c., empowered to act.*
39. *Interpretation.*

AN Act for the acquisition of land for public purposes.

WHEREAS it is expedient to make better provision for the acquisition of land needed for public purposes within the territories in the possession and under the government of the East India Company, and for the determination of the amount of compensation to be made for the same; It is enacted as follows: -

I. Sections I to VII inclusive, Regulation I. 1824 of the Bengal Code; so much of Act XXVIII of 1839 as is in force; Act I of 1850; Act XVII of 1850; Act XLII of 1850; Act XX of 1852; and Act I of 1854—are hereby repealed, except so far as they repeal the whole or any part of any other Regulation or Act, and except as to suits or proceedings commenced, contracts made, acts done and liabilities incurred before the passing of this Act.

Regulations
and Acts repealed.

II. Whenever it appears to the local Government that any land is required to be taken by Government at the public expense for a public purpose, a declaration shall be made to that effect under the signature of a Secretary to the Government or of some officer duly authorized to certify the orders of the Government, and such declaration shall be conclusive evidence that the purpose for which the land is needed is a public purpose; and after making such declaration, the Government may take any such land in the manner hereinafter provided.

A declaration signed by a Secretary to Government to be proof that land is required for public purposes.

III. Whenever any land shall have been declared to be required for a public purpose, the Government shall

After such declaration, the Government may

issue orders to the Collector

direct the Collector of the District, or some other officer specially appointed in that behalf, to take order for the acquisition of the land in the manner hereinafter provided.

The Collector to mark out and measure the land and issue notices.

IV. The Collector or other officer shall thereupon cause the land to be marked out and measured, and a plan to be made of the same. After the land has been so marked out and measured, he shall cause a notice to be affixed in some conspicuous place upon the land, and published by proclamation in the neighbouring bazars and villages, to the effect that the land is about to be taken by Government for a public purpose ; and shall also give notice to the same effect to the occupier (if any) of such land, and to all such persons known or believed to be interested therein, or to be entitled by Section XXXVIII of this Act to act for persons so interested, as shall reside or have agents within the Collectorate or other Revenue District in which the land is situate, by serving such notice on such persons or their agents. Such notice shall contain a citation calling on all persons interested in land to appear personally or by agent at a time and place therein mentioned, such time not being less than fifteen days after the date of publication of the notice ; and to state the nature of their interests in the land and the amount and particulars of their claims to compensation for the same.

Notice what to contain.

Proceedings of Collector in case of agreement with or absence of claimants.

V. On the day fixed, the Collector or other officer shall proceed to enquire summarily into the value of the land and the amount of compensation to be awarded, and, if he and all the persons interested who have attended in pursuance of the notice agree as to the amount of compensation to be allowed, shall make an award for the same : and if the said persons agree also in the apportionment of the compensation, such apportionment shall be specified in the award. The award shall be final and conclusive in regard to the value of the land and the amount of compensation for the same ; and also in regard to the apportionment (if any) of the compensation among the persons who have agreed thereto. The Collector or other officer may, if no claimant shall attend pursuant to the notice, or if he shall think fit

for any other cause, postpone the enquiry to a day to be fixed by him and notified in the manner provided in the preceding Section.

VI. When the Collector or other officer proceeds to make the enquiry as aforesaid, whether on the day originally fixed for the enquiry or on the day to which the enquiry may have been postponed, if no claimant shall attend, or if the said Collector or other officer shall be unable to agree with the persons interested who have attended in pursuance of the notice as to the amount of compensation to be allowed, the matter shall be referred to the determination of arbitrators to be appointed in the manner hereinafter provided

Arbitrators
when to be ap-
pointed.

VII. If upon the said enquiry any question arise respecting the title to the land or any rights or interests therein between two or more persons making conflicting claims in respect thereof, the person deemed by the Collector or other officer to be in possession as owner, or in receipt of the rents as being entitled thereto, shall, for the purpose only of taking such measures as may be necessary for fixing the value of the land and the amount of compensation to be allowed for the same, be held as between such persons to be the person interested in the land.

Person in pos-
session shall be
held for some
purposes to be
the person inter-
ested in the land.

VIII. When the Collector or other officer has made an award or directed a reference to arbitration, he may take immediate possession of the land which shall thenceforward be vested absolutely in the Government, free from all other estates, rights, titles, and interests

After Collec-
tor's award or re-
ference to arbi-
tration posses-
sion may be
taken.

IX. *Repealed by Act II, 1861.*

X. Clause I. When any case is referred to arbitration, the Collector or other officer, and the person interested in the land, shall, unless they concur in the appointment of a single arbitrator, each appoint one arbitrator, if there be several persons having a joint interest in the land, and they cannot agree in the appointment of an arbitrator, such disagreement shall be deemed a refusal to appoint within the meaning of the next following Section.

Arbitrators
how to be ap-
pointed.

Clause 2. If there be several persons having distinct and separate interests in the land, and they cannot agree in the appointment of an arbitrator on their behalf, it shall be competent to the Collector or other officer (subject to the orders of the Commissioner or other superior Revenue authority) to refer the question of the compensation to be allowed for each of such distinct and separate interests to a separate arbitration; or to select any one of the persons interested whose interest appears to him to qualify such person to represent the others, and the person so selected shall appoint an arbitrator on behalf of all the persons interested.

In every case the appointment shall be in writing, and neither of the parties to the arbitration shall have power to revoke the same without the consent of the other.

If no claimant attends, the arbitrator appointed by the Collector shall proceed to arbitrate.

XI. If no claimant shall have attended, or if the persons interested in the matter in dispute or authorized to act in that behalf refuse or neglect for the period of fifteen days to appoint an arbitrator, then a single arbitrator appointed by the Collector or other officer shall arbitrate the matter. Provided that the person so appointed shall not be an Officer of Government

Appointment of a third arbitrator.

XII. When more than one arbitrator shall be appointed, the arbitrators shall, before they enter upon the matter referred to them, nominate and appoint by writing a third person to act with them as arbitrator; and in case the arbitrators shall neglect to appoint such third person for a period of one week after having been required to do so, the Collector or other officer shall appoint a third arbitrator.

Arbitrator refusing or becoming incapable to act, &c.

XIII. If any person, on being appointed an arbitrator, shall refuse to act, or after accepting the appointment, shall die or become incapable of acting, another person shall be appointed in his stead, in the same manner in which the first person was appointed.

The arbitrators may by consent appoint the compensation awarded.

XIV. When the amount of compensation is referred to arbitration, it shall be competent to the Collector or other officer, with the written consent of all the persons interested,

to require the arbitrators to determine the proportions in which all such persons are entitled to share in the amount awarded.

XV. When the Collector or other officer and the persons interested in the land agree as to the amount of compensation, or when such amount shall have been settled by arbitration, if any dispute shall arise as to the apportionment of the same or any part thereof, it, shall be competent to the Collector or other officer, with the written consent of all persons interested in the matter in dispute, to refer the same to arbitration. If the parties cannot agree with respect to the nomination of the arbitrators, or if the persons nominated by them shall refuse to accept the arbitration, or, having accepted it, shall refuse to act, and the parties are desirous that the nomination shall be made by the Collector or other officer, he shall appoint some proper person or persons to arbitrate the matter. The provisions of this Act relating to arbitrators appointed under Sections X and XI and to the proceedings of such arbitrators shall be applicable to persons appointed arbitrators under this Section.

By consent arbitrators may be appointed to apportion the compensation where the amount thereof has been agreed upon.

XVI. After the arbitrators have accepted the appointment, the Collector or other officer shall be competent to exercise towards them such powers and authority for securing their attendance and the due completion of their award, as the Collector may legally exercise towards witnesses summoned before him, when acting judicially, for the purpose of compelling them to attend and give evidence.

Powers of Collector for securing attendance of arbitrators and completion of award

XVII. If no award be made within a period to be fixed for that purpose by the Collector or other officer, he may order that the matter shall be referred to another arbitrator or arbitrators to be chosen in the same manner and subject to the same rules as the first.

In default of award within a specified period, other arbitrators may be chosen.

XVIII. The Collector or other officer shall furnish the arbitrators, or so far as may be in his power procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry.

Collector to furnish information, and to enforce the attendance, &c., of witnesses, &c.

He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for and whom the parties may not be able to produce before them without such process, and require the persons so summoned to bring and produce before them all such books, papers, deeds, writings, maps, and plans as they shall require. Persons so summoned shall be subject to all the provisions of the laws in force regarding persons summoned as witnesses before the Collector, when acting judicially.

Witnesses to be
examined upon
oath, &c.

XIX. Every witness examined before the arbitrators shall be examined upon oath or affirmation to be administered by or made before the said arbitrators.

Award.

XX. On the close of the enquiry, the arbitrators, or a majority of them, shall deliver a full and complete award in respect of the matter referred to them, and shall therein specify (as the nature of the case may require) the amount and particulars of compensation awarded by them, the persons entitled to compensation, and the proportions in which they are so entitled.

Arbitrators'
fees.

XXI. The arbitrators on making their award shall be entitled to reasonable fees for their services, the amount of which shall be fixed by the Collector or other officer, subject to the orders of the Commissioner or other superior Revenue authority.

Costs.

XXII. The award shall declare the costs of the arbitration and by whom and in what proportion they shall be paid. All costs, including the fees of the arbitrators, incurred for the purpose only of determining the amount of compensation to be allowed for the land, shall be charged to the Government, unless the arbitrators shall award as compensation the same, or a less sum than shall have been offered by the Collector or other officer, in which case each party shall bear his own costs so incurred, and shall also pay a moiety of the fees of the arbitrators. Costs incurred for determining the apportionment of the compensation among the persons interested shall be paid by such persons in such proportions as the arbitrators shall direct.

XXIII. The proceedings of the arbitration shall be deposited in the office of the Collector or other officer; and every person interested therein shall be entitled to a copy of the award on plain paper, under the seal and signature of the Collector or other officer, which copy shall be *prima facie* evidence thereof.

Proceedings to be deposited in the Collector's Office. Copy of award signed, &c, by him to be evidence.

XXIV. When any land is taken under the provisions of this Act, the amount of compensation to be awarded shall include any damage, which may be sustained by any of the persons interested therein in respect of any adjoining land held therewith.

Compensation to include damage done to adjoining land.

XXV. If any compensation beyond the value of the land be awarded on account of any damage which may be sustained by any person interested in the land, the award shall specify the value of the land and the amount of such damage separately, and also the name of the person to whom compensation for damage is awarded.

The amount of damage shall be specified separately in the award.

XXVI. When any land taken under this Act forms part of an estate paying revenue to Government, the award shall specify the net rent of the land including the Government Revenue, and the computed value of such rent; and it shall be at the discretion of the Revenue authorities either to pay over the whole of such value to the owner of the estate on the condition of his continuing to pay the jumma thereof without abatement; or to determine what proportion of the net rent shall be allowed as a remission of revenue, in which case a deduction shall be made from the said value proportionate to the value of such remission.

Proceeding where land paying revenue to Government is taken

XXVII. When the amount of compensation to be paid for land taken under the provisions of this Act is determined by the award of the Collector or other officer under Section V, he shall pay the amount awarded at the time when possession is taken of the land on account of Government. When the compensation is determined by the award of arbitrators under Section XX, the Collector or other officer shall pay the amount awarded with interest at the rate of six per

Amount of compensation when and how to be paid.

centum per annum from the time when possession was taken of the land on account of Government.

Payment of compensation to whom to be made.

XXVIII. Except as provided in the next following Section, payment of the compensation shall be made, according to the award, to the persons named therein. Provided always, that nothing in this Act contained shall affect the liability of any person who may receive the compensation awarded for any land, or any portion of such compensation, to pay the same to the person lawfully entitled thereto.

Payment of compensation may in certain cases be deferred

XXIX. If there exist any ground which, in the judgment of the Collector or other officer, renders it improper to make immediate payment of the compensation, or of any portion thereof, to any of the persons having or claiming any interest in the land or in the compensation awarded in respect thereof, the amount, or such portion of the amount as he may deem sufficient, shall be invested in Government Securities, and held in deposit until an order of Court shall be obtained for the payment thereof. Such order shall be obtained in the Court which would have had jurisdiction in respect of the land taken.

In certain cases the Small Cause Court may order payment

XXX. If the land taken be within the local limits of any of Her Majesty's Supreme Courts of Judicature, and the amount of compensation awarded do not exceed five hundred Rupees, the order may be made by the Court of Small Causes.

Reversal or alteration of award Limitation of suits to set aside an award.

XXXI. No award of arbitrators made in accordance with the provisions of this Act, shall be liable to be reversed or altered, except by the decision of a Civil Court on the ground of corruption or misconduct of the arbitrators. In case the award shall be so reversed, the matter shall be referred to another arbitrator or other arbitrators to be appointed in the same manner as the first. All suits to set aside an award under this Act shall be instituted within three months from the date of the award.

A part of a building not to be taken.

XXXII. The provisions of this Act shall not be put in force for the purpose of acquiring a part only of any house or other building or manufactory, if the owner desire that

the whole of such house, building or manufactory shall be taken

XXXIII Whenever any land is needed for a road, canal, railway or the like and the local Government makes the declaration provided in Section II, it shall not be necessary to specify the extent, limits or position of the land, but it shall be sufficient to declare the general direction of the line of the work and the average breadth of the land required for the same.

When land is needed for a road, canal, &c the general direction of the line shall be declared.

XXXIV When any declaration has been made under the provisions of Section II of this Act the Collector or other officer may authorize any person with his servants and workmen, to enter upon the land for the purpose of making a survey thereof and in the case of a road, canal, or railway to set out the intended line thereof and to mark such line by cutting a trench or placing land mark and where otherwise the survey cannot be completed and the line marked, to cut down and clear away any part of any jungle or tops of trees in the direction of the intended line. Provided, that no person shall enter into any house or building or upon the enclosure of any house or any enclosed garden (unless with the consent of the occupier thereof) without previously giving the said occupier twenty-four hours' notice of his intention to do so.

After declaration persons authorized may enter upon the land and make a survey. Previous notice of entry to be given.

XXXV It shall be the duty of the Collector or other Officer to take account of all persons and damage done as aforesaid and forthwith to oblige payment for the same to the persons interested. In case the same is not accepted the damage shall be allowed for in the compensation to be awarded.

Account of damage to be taken, and payment to be offered.

XXXVI Whoever wilfully obstructs any persons in lawfully setting out the line of any road, canal or railway or wilfully destroys, damages, or displaces any land-mark, or effaces or fills any trench intended to mark such line, shall, on conviction, be liable to be imprisoned for any term not exceeding six months, or to fine not exceeding two hundred Rupees, or to both.

Obstruction to setting out line of works, &c.

Trustees, Com-
mittees of lunatics
&c empowered to act

XXXVII *Repealed by Act II, 1861*

XXXVIII In any proceedings under this Act, the following persons shall be deemed persons entitled to act as and to the extent hereinafter provided (that is to say)— a trustee or trustees for other persons beneficially interested shall in all cases be deemed the person or persons entitled to act with reference to any such proceedings and that to the same extent as the person beneficially interested could have acted if not from disability. A married woman in cases to which the English law is applicable shall be deemed the person so entitled to act and whether of full age or not, to the same extent as if she were unmarried and of full age. The guardians of minors and the Committees of lunatics or idiots shall be deemed respectively the persons so entitled to act to the same extent as the minors, lunatics or idiots themselves if not from disability could have acted.

Interpretation

XXXIX The following words and expressions in this Act shall have the several meanings hereinafter assigned to them, unless they bear something contrary in the subject or context repugnant to such construction (that is to say)—

The words "the local Government" shall mean the person or persons for the time being immediately administering the Executive Government of the portion of the territories in the possession and under the Government of the East India Company in which the land in question is situate, and shall include any Chief Commissioner or other Chief Civil Officer of a Province whom the Governor General in Council may authorize to exercise the powers vested by this Act in the local Government.

The word "land" shall extend to tenements and hereditaments of any tenure and all houses buildings, trees, or appurtenances thereupon as well as land.

The expression "person interested in the land" shall include all persons interested in the land either for life or for years or in remainder reversion, or succession, and all mortgagees, leaseholders or tenants, not being tenants by the month or at will, of such land.

Words importing the singular number only shall include the plural, and words importing the plural number only shall include the singular.

Words importing the masculine gender only shall include females.

The word 'person' shall include a corporation.

No. VII of 1857

MADRAS

1. *For the Council may appoint or dismiss Deputy Collectors and Deputy Magistrates.*

2. *Oath or declaration to be made by the Officers so appointed.*

3. *Duration of office of a Deputy Collector.*

5. *Nothing in the Act shall affect the Office of any holding the offices.*

6. *Rules relating to the office of Deputy Collectors or Deputy Magistrates.*

An Act for the more extended employment of Unconnected Agency in the Revenue and Judicial Departments in the Presidency of Fort Saint George.

Whereas the exigencies of the Public Service require the more extended employment of Unconnected Officers in the Revenue and Judicial Departments in the Presidency of Fort Saint George: It is hereby enacted as follows:—

I. The Governor of Fort Saint George in Council may appoint in any Zillah or District within the said Presidency, one or more Unconnected Deputy Collectors and Deputy Magistrates with the powers hereinafter mentioned.

Governor in Council may appoint Unconnected Deputy Collectors and Deputy Magistrates

II. Every person appointed a Deputy Collector or Deputy Magistrate under this Act shall before entering upon the duties of his Office, make and subscribe an oath or declaration in writing to the same effect as the oath prescribed by law for Assistant Collectors and Assistant Magistrates respectively.

Oath or declaration in writing to be made by such Officers

Duties and powers of a Deputy Collector.

III. A Deputy Collector appointed under this Act may, within the District to which he is appointed, perform such of the duties and exercise such of the powers of a Covenanted Assistant Collector as shall be assigned to him from time to time by the Collector of such District; and shall be subject to the same control in all respects as a Covenanted Assistant Collector is subject to.

IV. Repealed by Act XVII, 1862.

One Officer may hold both offices.

V. Nothing in this Act contained shall be held to disqualify any Uncovenanted Officer appointed under this Act from holding at the same time the offices of Deputy Collector and Deputy Magistrate.

Rules regarding dismissal of Deputy Collectors or Deputy Magistrates.

VI. A Deputy Collector or Deputy Magistrate appointed under this Act shall not be dismissed from office without the sanction of the Governor in Council. Whenever there may be reason to believe that a Deputy Collector or Deputy Magistrate is disqualified by neglect, incapacity, or corruption for continuance in office, a report shall be submitted by the Collector or Magistrate through the proper channel for the consideration and orders of the Governor in Council, who shall be competent to suspend such Deputy Collector or Deputy Magistrate and order a further enquiry into his conduct, or to order his immediate dismissal, as may appear just and proper.

Act No. VIII. Repealed by Act XXIX., 1861.

ACT NO. IX OF 1857.

GENERAL.

• An Act to repeal Act VI of 1856.

WHEREAS the Court of Directors of the East India Company have, in pursuance of the power vested in them by law, disallowed Act VI. of 1856, and have signified to the Governor General of India in Council their disallowance thereof. It is enacted as follows:—

Act VI of 1856 is hereby repealed.

ACT No X of 1857.

BENGAL

An Act to amend Act XXXVII of 1855

WHEREAS by Act XXXVII of 1855 certain Districts described in the Schedule to the said Act were removed from the operation of the General Regulations and Acts, and whereas it is expedient to make certain alterations in respect to the Districts so removed It is enacted as follows —

So much of Act XXXVII of 1855 as removes from the operation of the General Regulations of the Bengal Code, and Acts of the Government of India, the Districts described in the Schedule thereto and the said Schedule are hereby repealed, except as to any proceedings pending at the time of the passing of this Act, and all the provisions of the said Act, which are applicable to the Districts described in the said Schedule, shall, after the passing of this Act be applicable only to the Districts described in the Schedule to this Act, in the same manner as if the Schedule to this Act, had been the Schedule to Act XXXVII of 1855

SCHEDULE

The Damun-i-Koh

So much of Pergunnah Bhaugulpore and of Pergunnah Suttiaree as lies East of the Gerioah Nuddce and South of a line drawn Eastward from Humza Chuck to the village of Dighee.

BRANCH	{	Pergunnah Telegurhee	}	Except such parts of them as are now or may hereafter be situate on the left bank of the main stream of the Ganges, so that in any change in the course of the river the main stream shall be the boundary
		, Jumunee		
		, Chictowleah		
		, Kankjole		
		, Bahadurpore		
		, Akbernagera		
		, Inyutnagera		
		, Mukien		
		, Soltunagera		
		, Umbet		
/ BRANCH	{	, Soltunabad	}	Except such detached villages as lie within the general boundaries of Pergunnahs not mentioned in this Schedule
		, Gollia		
		, Umloo Mootah		
		, Passye		
		, Heliwa		
		Tupch Munchuree		
		, Beluttia		
		Pergunnah Tullia		
		Tupch South Dehlu		
		, Kanlit Kanisla		
/ BRANCH	{	, Mulumabad	}	Such part of Pergunnah Duceen Mohalla as lies North of the Challa or Chundun Ghat Nullah

Such detached portions of other Pergunnahs and Tuppahs as lie within the general boundaries of any of the above-mentioned Pergunnahs and Tuppahs

Such portions of Pergunnahs belonging to Malda and Purneah below the village of Khelapore in Pergunnah Telegurhee as are now or may hereafter be situate on the right bank of the main stream of the Ganges

GENERAL

ACT No XI OF 1857

- 3 Executive Government may issue a Commission for the trial of persons charged with certain offences in any proclaimed District
- 4 Government may vest certain power in the Courts
- 5 Magistrate may commit persons for trial before a Court held under this Act
- 6 Act not to apply to British born subjects or their children
- 7 Government may issue proclamation prohibiting the carrying or possession of arms in any District

8. *Penalty for unlawful possession of arms, &c.*
9. *Magistrate empowered to search houses, &c., and to seize arms.*
10. *Government may grant exemption to certain persons.*
11. *Interpretation.*

An Act for the prevention, trial, and punishment of Offences against the State.

WHEREAS it is necessary to make due provision for the prevention, trial, and punishment of Offences against the State ; It is enacted as follows :—

I. Repealed by Act XVII, 1862.

II. Repealed by Act XVII, 1862.

III. *Clause 1.*—Whenever the Executive Government of any Presidency or place within the said territories shall proclaim that any District subject to its Government is or has been in a state of rebellion, it shall be lawful for such Government to issue a Commission for trial of all persons who shall be charged with having committed within such District, after a day to be specified in the Commission, any of the crimes mentioned in the preceding Section, or any other crime against the State, or murder, arson, robbery, or other heinous crime against person or property.

Government may issue a Commission for the trial of persons charged with certain offences in any proclaimed District.

Clause 2.—The Commissioner or Commissioners authorized by any such Commission may hold a Court in any part of the said District mentioned in the Commission, and may there try any person for any of the said crimes committed within any part thereof ; it being the intention of this Act, that the District mentioned in the Commission shall, for the purpose of trial and punishment of any of the said offences, be deemed one District.

IV. It shall be lawful for the Executive Government, by such Commission, to direct that any Court held under the Commission shall have power, without the attendance or *futwa* of a Law Officer, or the assistance of Assessors, to pass upon every person convicted before the Court of any of the aforesaid crimes any sentence warranted by law for such crime ; and that the judgment of such Court shall be final

Government may vest certain powers in such Court.

and conclusive, and that the said Court shall not be subordinate to the Sudder Court.

Magistrate may commit persons for trial before such Court.

V. If a Commission be issued under the authority of this Act, any Magistrate within the District which is described in the Commission may commit persons charged with any of the aforesaid crimes within such District for trial before a Court to be held under this Act.

Act not to apply to European British subjects.

VI. Nothing in this Act shall extend to the trial or punishment of any of Her Majesty's natural-born subjects born in Europe, or of the children of such subjects.

Government may issue proclamation prohibiting the carrying or possession of arms in any District.

VII. Whenever the Executive Government shall deem it necessary for the public safety, it shall be lawful for such Government to declare, by proclamation, that from and after a day to be named therein, it shall not be lawful for any person, or for any specified class of persons, to carry or have in their possession any arms or instruments used for warlike purposes, or any specified description of arms or instruments aforesaid, within any District mentioned in the proclamation.

Penalty for unlawful possession of arms, &c

VIII. After the day named in the proclamation, whoever shall carry, or have in his possession, any arms or other such instrument as aforesaid contrary to the proclamation, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty Rupees, or to imprisonment for a period not exceeding six months; and the arms or other such instrument as aforesaid shall be confiscated.

Warrant to search houses, &c., and to seize arms.

IX. It shall be lawful for a Magistrate, by warrant, to cause search to be made in any house or other place in which there may be reasonable grounds for suspecting that any arms or other such instrument as aforesaid, kept contrary to the proclamation, may be found; and any such arms or instrument may be seized and confiscated.

Government may grant exemption to certain persons.

X. Nothing in Sections VII, VIII, and IX of this Act shall extend to any person who may be exempted by the authority of the Executive Government from the prohibition contained in such proclamation.

XI. The word "Magistrate" in this Act shall include any person lawfully exercising the powers of a Magistrate and any Assistant to a Magistrate or Deputy Magistrate specially authorized by the Executive Government to exercise the powers vested in a Magistrate by this Act.

Interpretation.

Act No. XII of 1857

THE STRAITS

1. *Provision for the better regulation of the Straits Settlements and the Port of Swatow.*
 R. 1. *Enacted by the Governor in Council, in and for the Straits Settlements and the Port of Swatow.*
 2. *Short title.*
 3. *Enacted by the Governor in Council, in and for the Straits Settlements and the Port of Swatow.*
 4. *Provision for the better regulation of the Straits Settlements and the Port of Swatow.*
 5. *Enacted by the Governor in Council, in and for the Straits Settlements and the Port of Swatow.*
 6. *Enacted by the Governor in Council, in and for the Straits Settlements and the Port of Swatow.*
 7. *Enacted by the Governor in Council, in and for the Straits Settlements and the Port of Swatow.*

AN ACT to amend the laws relating to the Port of Swatow and the Straits Settlements, and to provide for the better regulation of the Straits Settlements and the Port of Swatow.

WHEREAS there is reason to believe that certain Junkmen periodically visit the Port of the said Settlements, and that for the purpose of trade, but in reality to engage in and fit themselves out for the purpose of making piratical attacks on peaceful trading Vessels in the vicinity of the Straits of Malacca and elsewhere; It is hereby enacted as follows:—

I. The Chief Resident Civil Authority of any Station of the said Settlement may by an order in writing, signed by him at any time and as often as he shall deem it expedient direct any public Officer to proceed on board any Junk or other Native Vessel being in any port or place within the limits of the said Station and to search such Vessel, and to take an account of the amount thereof and to make such further and other enquiry and investigation into the objects,

Penalty for obstructing search or enquiry ordered by the Chief Resident Civil Authority in respect of any Junk or Native Vessel

pursuits, and movements of the Master or person in charge of such Junk or Vessel as the said Chief Civil Authority shall think fit, and any person who shall hinder, obstruct, or in any wise prevent such search, investigation, or enquiry, or shall obstruct such public Officer, or any person acting in his aid or assistance, in the discharge of his duty,—shall, on conviction before a Magistrate of Police, be liable to a fine not exceeding five hundred Rupees, or to imprisonment, with or without hard labor, for a term not exceeding six calendar months, or to both.

Seizure and detention of any Junk or Native Vessel suspected to be piratical

II. Whenever it shall be proved, by oath or affirmation, to the satisfaction of the Chief Resident Civil Authority of any of the said Stations, that there is reasonable cause to suspect that any Junk or Vessel in any port or place within the limits of the said Station is a piratical Vessel, or belongs to pirates, or is intended to be used for piratical purposes or for the purpose of knowingly trading with or supplying pirates, he may, by an order in writing signed by him, cause such Junk or Vessel, together with her tackle, apparel, and furniture, arms, stores, and ammunition, and the goods and merchandize laden therein, or any portion thereof, to be seized and detained.

Seizure and detention to be reported to the Governor.

III. Whenever any such Junk or Vessel, furniture, arms, stores, ammunition, goods, or merchandize, shall be seized and detained under the provisions of this Act, the Chief Resident Civil Authority shall report the circumstance, as soon as possible, to the Governor of the said Settlement, who shall give orders as to the detention or release of such Junk or Vessel or other things so seized or detained.

Penalty for Master or Crew refusing or neglecting to attend as witnesses, or giving false evidence.

IV. The Chief Resident Civil Authority at any of the said Stations may, by order in writing signed by him, summon the Master or person in charge, and any of the Crew of any such Junk or Vessel which he may have reasonable cause to suspect as aforesaid, or any other person, to attend before him, and to produce any document in his possession, and may examine such persons upon oath or affirmation to be administered by him, touching any matter which may appear

to be material for the purpose of ascertaining whether the said Vessel is a piratical Vessel or belongs to pirates or is intended to be used as aforesaid. Every person so summoned, who refuses or neglects to attend or make answer, or to produce any document in his possession, concerning the matters hereby authorized to be inquired into, or who wilfully gives false evidence or otherwise misbehaves in giving or refusing to give evidence, shall be liable, on conviction before a Magistrate of Police, to a fine not exceeding five hundred Rupees, or to imprisonment, with or without hard labor, for a term not exceeding six calendar months, or to both.

V. No vessel or other things seized or detained in pursuance of the provisions herein contained, and no property on board thereof, shall be detained for a longer period than six months, unless within that time proceedings shall have been commenced for the condemnation thereof.

No Vessel &c.
to be detained
beyond six
months, un-
less proceedings
be commenced
within that time.

VI. Whenever it shall be made to appear to the satisfaction of the Chief Resident Civil Authority of any of the said Stations, that there are reasonable grounds to suspect that any Junk or Native Vessel is about to proceed to Sea from any port or place within the said Station so manned, armed, equipped, furnished, or fitted out, as to afford reasonable ground to suspect that the said Vessel is intended for piratical purposes, it shall be lawful for the said Chief Civil Authority to take such measures as may be necessary or proper to prevent such Vessel from proceeding to Sea from such port or place, so long as the same is manned, armed, equipped, furnished, or fitted out beyond what he may deem sufficient for the due navigation and protection thereof as a Trading Vessel.

Suspected
vessels not to
leave Port with
increased arma-
ment

VII. No damages shall be recovered for the seizure or detention of any Vessel or other thing in pursuance of this Act, if it shall appear that there were reasonable grounds to suspect that the Vessel or other thing so seized or detained was piratical, or belonged to any pirate or pirates, or was intended to be used for piratical purposes; or for the purpose of knowingly trading with or supplying pirates; but

No damages to
be recovered for
seizure on rea-
sonable grounds
of suspicion.

Proceedings for
condemnation or
restitution of
vessels, &c.

whenever any Vessel or other thing shall be seized or detained under the provisions of this Act, proceedings may be taken in any Admiralty or Vice-Admiralty Court having jurisdiction over the place where the seizure was made or in any division of such Court, for the condemnation or for the restitution of such Vessel or other thing; and if, in such proceeding, it shall appear to the Court that such Vessel or other thing was piratical, or belonged to pirates, or was intended to be used for a piratical purpose, or for the purpose of knowingly trading with or supplying pirates, the same shall be forfeited and condemned without a previous conviction of the owner or of any other person of the crime of piracy.

BENGAL.

ACT No XIII OF 1857.

1. *Laws repealed.*
2. *Poppy cultivation and Opium manufacture, except for Government, prohibited.*
3. *To what Agents the superintendence of the provision of Opium shall be intrusted.*
4. *Opium Agents amenable to the Civil Courts. No suit to be brought, unless application for redress be first made to Agent.*
5. *Opium Agent not to sue without sanction of Board of Revenue.*
6. *Board of Revenue may in certain cases appoint an Officer to conduct or defend suits.*
7. *Board to fix limits of cultivation and price to be paid to cultivators.*
8. *Issue of licences. What to be specified in license.*
9. *Cultivator to have option whether to engage to cultivate or not. Officers compelling cultivator to enter into engagement liable to be dismissed. Sub-deputy Agent may, subject to appeal, withhold license to cultivate.*
10. *Penalty on cultivator who has received advances but neglects to cultivate the full quantity of land. Adjudication of penalty.*
11. *Delivery of the Opium produced. Such Opium not liable to distress or attachment. Value thereof may be attached.*
12. *Opium to be weighed and classified by Sub-deputy Agent. Proceeding when cultivator is dissatisfied with classification.*
13. *Weighing and examination of Opium at the Sudder Factory.*

14. *Confiscation of adulterated Opium. Adjudication of confiscation.*

15. *Weights and scales.*

16. *Adjustment of cultivator's accounts, and recovery of balance by distress. Proviso.*

17. *Penalty on Officer taking bribes.*

18. *Sum illegally exacted by land-holder from ryot on account of rent of Poppy land or illegal cess, may be recovered, together with a penalty, in summary suit before Collector.*

19. *Penalty for embezzlement of Opium by cultivator.*

20. *Penalty for illegal purchase of Opium from cultivator. And for illegal connivance by an Opium Officer at embezzlement.*

21. *Penalty for unlicensed cultivation.*

22. *Duty of land-holders and others to give information of illegal cultivation.*

23. *Duty of Police and other Officers to give information of illegal cultivation.*

24. *Police or Abkarie Darogah how to proceed, in case of illegal cultivation.*

25. *Land-holders, &c., may attach in cases of illegal cultivation.*

26. *Adjudication of penalties.*

27. *Imprisonment in default of payment of fines under this Act*

28. *Punishment for repetition of offences.*

30. *Disposal of fines and forfeitures.*

31. *Governor General in Council may allow free cultivation of Poppy and manufacture of Opium in any District. Proviso.*

AN Act to consolidate and amend the law relating to the cultivation of the Poppy and the manufacture of Opium in the Presidency of Fort William in Bengal.

WHEREAS the existing law relating to the cultivation of the Poppy and the manufacture of Opium on account of Government is in some respects inconsistent with the practice which now obtains under agreement between the Opium Agents and the cultivators, and it is expedient that such inconsistency should be removed; and whereas it is also expedient that certain obsolete Regulations relating to the provision of Opium should be formally repealed, and that the laws for preventing the illicit cultivation of the Poppy, and for regulating the cultivation of the Poppy and the manufacture of Opium on account of Government,

should be consolidated and amended : It is enacted as follows :—

Laws repealed

I Regulation XXXII. 1793, Regulation XXXII. 1795, Regulation LIII 1795, Sections I to XL of Regulation XIII 1816, and Clauses 1 to 5 Section XVIII and Sections XXIII and XXIV of Regulation VII. 1824, of the Bengal Code, are hereby repealed, except so far as they repeal, the whole or part of any other Regulation, and except as to acts done, offences committed, and liabilities incurred before the passing of this Act.

Poppy cultivation and Opium manufacture, except for Government, prohibited.

II. The cultivation of the Poppy and the manufacture of Opium within the territories under the Presidency of Fort William in Bengal, except on account of Government, are hereby prohibited

To what Agents the superintendence of the provision of Opium shall be intrusted.

III. The superintendence of the provision of Opium for Government shall be intrusted to Agents, or other Officers, being covenanted servants of the Company duly appointed by Government in that behalf, who shall perform the duties connected therewith under the control and direction of the Board of Revenue in Calcutta. The Agents, or other Officers as aforesaid, shall be assisted by Deputy Agents and Sub-deputy Agents, or such other Officers, covenanted or uncovenanted, as the Government may from time to time appoint for the purpose. The Collector of the District shall ordinarily, and unless Government shall otherwise direct, be *ex-officio* Deputy Agent ; and the relative duties and powers of the Deputy Agents and Sub-deputy Agents shall be from time to time regulated by the said Board with the sanction of Government.

Opium Agents amenable to the Civil Courts. No suit to be brought unless application for redress be first made to Agent.

IV. The Opium Agents, and their subordinate Officers of every description, are declared amenable to the Civil Courts for all acts done by them in their official capacity, except as otherwise herein provided. But no suit shall be instituted against an Agent or any subordinate Officer, for any act done in his official capacity, unless the person who shall consider himself aggrieved by the act of such Agent

or Officer shall have first made application for redress to the Agent himself. In the event of such person not being satisfied with the order which the Agent may pass upon his application, it shall then be competent to him either to lay his case by petition before the Board of Revenue, or at once to seek redress in the Civil Court.

V. The Opium Agents shall not in their official capacity institute any suit in a Civil Court without the previous sanction of the Board of Revenue.

Opium Agent not to sue without sanction of Board of Revenue.

VI In cases in which the Board of Revenue may judge it expedient, or in which they may be so directed by Government, they may take upon themselves, or intrust to an Officer specially appointed for the purpose, the superintendence of the prosecution or defence of any suit or appeal in which they, or an Agent, or any other Officer subordinate to them may be engaged, instead of leaving such superintendence to the Agent or any other Officer.

Board of Revenue may appoint an Officer to conduct or defend suits.

VII. The Board of Revenue, with the sanction of Government, shall from time to time fix the limits within which licenses may be given for the cultivation of the Poppy on account of Government. With the like sanction they shall from time to time fix the price to be paid to the cultivators for the Opium produced. The price shall be fixed at a certain sum per seer of eighty tolas for Opium of a certain standard consistence, and shall be subject to a rateable reduction, according to a scale sanctioned by the Board of Revenue, for Opium of a consistence below the standard.

Board to fix limits of cultivation and price to be paid to cultivators.

VIII. The Sub-deputy Agents, or other Officers entrusted with the superintendence of the cultivation, shall, at the proper period of the year, issue licenses to the cultivators, who may choose to engage to cultivate the Poppy and to deliver the produce to the Officers of Government at the established rates. Every license shall specify the number of beegahs which the party engages and is authorized to cultivate, and shall be in such form as the Agent, with the sanction of the Board of Revenue, may direct. A counterpart

Issue of licenses. What to be specified in license.

engagement, in conformity with the tenor of the license shall be taken from the cultivator.

Cultivator to have option whether to engage to cultivate or not. Officers compelling cultivator to enter into engagement liable to be dismissed.

IX It shall be at the option of every cultivator to enter into engagements for the cultivation of the Poppy or not, as he may think fit; and any Sub-deputy Agent or other Officer as aforesaid, or any inferior Officer employed in the provision of Opium, who shall compel, or use any means to compel, any cultivator to enter into engagements or to receive advances for the cultivation of the Poppy, shall be liable to be dismissed from his situation. It shall be at the option of the Sub-deputy Agent, or other Officer as aforesaid, to withhold a license from any cultivator whenever he may think proper so to do. Any person to whom a license has been refused may appeal to the Agent, and the decision of the Agent shall be final.

Penalty on cultivator who has received advances but neglects to cultivate the full quantity of land.

X. If it shall be found that any cultivator, who has received advances from Government, has not cultivated the full quantity of land for which he received such advances, he shall be liable to a penalty of three times the amount of the advances received for the land which he has failed to cultivate, and the said penalty may be adjudged by the Deputy Agent or Collector, on the complaint of the Sub-deputy Agent or other Officer as aforesaid. Any person dissatisfied with the judgment of the Deputy Agent or Collector may appeal to the Agent, and the decision of the Agent shall be final.

Delivery of the Opium produced. Such Opium not liable to distress or attachment. Value thereof may be attached.

XI. All Opium the produce of land cultivated with Poppy on account of Government shall be delivered by the cultivators to the Sub-deputy Agents or other District Officers, or shall be brought by them to the Sudder Factory, as the Agent may direct. And no such Opium shall be liable to be distrained or attached by a Zemindar or other proprietor, or a farmer of land, for the recovery of arrears of rent, or by any other creditor of a cultivator under any order or decree of Court, but the sum due to the cultivator on account of such Opium may be attached by order of the Court in the hands of the Agent or of the District Officer under the rules in force for such attachments.

XII. All Opium delivered by the cultivators to the Sub-deputy Agent or other District Officer, shall, before it is forwarded to the Sudder Factory, be weighed, examined, and classified according to its quality and consistence by that officer, or his assistant if duly authorized by the Agent in that behalf, in the presence of the cultivators and in conformity with rules sanctioned by the Board of Revenue. Any cultivator, who may be dissatisfied with the classification of the District Officer, shall be at liberty either to take his Opium to the Sudder Factory, or to have it forwarded thither by such officer separate from the Opium respecting which no dispute has arisen.

Opium to be weighed and classified by Sub-deputy Agent. Proceeding where cultivator is dissatisfied with classification.

XIII. All Opium forwarded by the District Officers to the Sudder Factory, and all Opium delivered at the Sudder Factory by the cultivators, shall be there weighed and examined by the Opium Examiner, or other officer duly authorized in that behalf, agreeably to rules sanctioned by the Board of Revenue; and the quality and consistence of the Opium, and the deductions from or additions (if any) to the standard price, to be made in accordance with the said rules, shall be determined by the result of such examination. The decision of the Examiner, or of the Agent in cases in which a reference to the Agent may be prescribed by the said rules, shall be final and conclusive, and not open to question in any Court.

Weighing and examination of Opium at the Sudder Factory.

XIV. When Opium delivered by a cultivator, either to a District Officer, or at the Sudder Factory, is suspected of being adulterated with any foreign substance, it shall be immediately sealed up pending examination by the Opium Examiner, and notice of such intended examination shall be given to the cultivator. If upon such examination the Opium shall be found to be so adulterated, the Agent on the report of the Examiner may order that it be confiscated; and the order of the Agent shall be final, and not open to question in any Court.

Confiscation of adulterated Opium. Adjudication of confiscation.

XV. The weights and scales made use of in the Sudder Factories, and at the District Kothees, shall be provided by

Weights and scales

the Board of Revenue. Every District Officer shall annually, before beginning to weigh the Opium of the season, examine the weights and scales in use in his District and shall report the result of such examination to the Agent. The Agent shall make a similar examination of the weights and scales at the Sudder Factory, and shall report the result to the Board. No weights or scales shall be made use of which on any such examination have not been found to be strictly accurate. It shall be the duty of all Officers who may superintend the weighing of Opium, to see that the Opium is weighed fairly with an even beam, and the practice of taking excess weight for the purpose of turning the scale, or as an allowance for dryage and wastage, is hereby prohibited.

Adjustment of
cultivator's ac-
counts, and re-
covery of ba-
lance by distress.
Proviso.

XVI. The accounts of the cultivators shall be adjusted annually by the District Officers as soon after the conclusion of the weighing and examination as possible; and any balance that may remain due from any cultivator, or from any mulito or intermediate manager, may be recovered by the District Officer by distress and sale of the property of the defaulter or of his surety, in the same manner and under the same rules as the property of defaulting cultivators in estates held khas may be distrained and sold by the Collector for the recovery of an arrear of rent or Revenue. Provided, that no warrant of distress and sale shall be issued by any District Officer without the sanction of the Agent previously obtained.

Penalty on offi-
cer taking
bribes

XVII. Any Officer of the Opium Department who shall receive any fee, gratuity, perquisite, or allowance, either in money or effects, under any pretence whatsoever, from any cultivator, or from any other person employed or concerned in the provision of Opium, other than the authorized allowances of his situation, shall be dismissed from his office, and, on conviction before a Magistrate, shall be liable to a fine not exceeding five hundred Rupees.

Sum illegally
exactd by land-
holder from ryot

XVIII. If any zemindar, or other proprietor of land, or any farmer of land, shall exact from any ryot on account

of his Poppy land, any illegal cess or any higher rate of rent than he is lawfully entitled to demand, the ryot, or the Sub-deputy Agent or other District Officer on his behalf, may institute a suit before the Collector, and recover from such proprietor or farmer the sum exacted by him in excess of his lawful demand, together with a penalty of treble the amount of such excess; and such suit shall be tried according to the rules prescribed for suits instituted before a Collector relating to arrears or exactions of rent.

on account of rent of Poppy land or illegal cess may be recovered, together with a penalty, in summary suit before Collector.

XIX. Any cultivator entering into engagements for the cultivation of the Poppy on account of Government, who may embezzle, or otherwise illegally dispose of, any part of the Opium produced, shall be liable to a penalty not exceeding ten times the fixed price of the Opium which he may be proved to have so disposed of, or to a fine not exceeding five hundred Rupees, if the amount of the said penalty be less than that sum, and the Opium, if found, shall be liable to confiscation.

Penalty for embezzlement of Opium by cultivator

XX. Any person purchasing or receiving any Opium from a cultivator or other person who may have entered into engagements for the cultivation of the Poppy, or who may be employed in the provision of Opium on account of Government, or bargaining for the purchase of Opium with such cultivator or person, or in any way causing or encouraging such cultivator or person to embezzle or illegally dispose of any Opium, and any Officer of the Opium department conniving in any way at the embezzlement or illegal disposal of any Opium, shall be liable to a fine not exceeding one thousand Rupees, unless the Opium purchased, bargained for, or illegally disposed of, shall exceed the weight of thirty-one seers and a quarter, in which case the fine may be increased, at a rate not exceeding thirty-two Rupees per seer for all such Opium in excess of that weight; and the Opium, if found, shall be liable to confiscation.

Penalty for illegal purchase of Opium from cultivator. And for connivance by an Opium Officer at embezzlement.

XXI. Any person who shall cultivate the Poppy without license from a Sub-deputy Agent or other officer duly authorized in that behalf, and any person who shall in any way cause, encourage, or promote such illegal cultivation,

Penalty for unlicensed cultivation.

shall be liable to a fine not exceeding five hundred Rupees, unless the quantity of land so illegally cultivated shall exceed twenty beegahs, in which case the fine may be at the rate of twenty-five Rupees per beegah ; and the Poppy plants shall be destroyed, or, if any Opium have been extracted from them, it shall be seized and confiscated. If the Opium shall have been extracted and shall not be seized, the offender shall be liable to a further fine not exceeding the rate of thirty-two Rupees per beegah of land illegally cultivated.

Land-holders
and others to
give information
of illegal cultiva-
tion

XXII. All proprietors, farmers, tihseeldars, gomashstahs, and other managers of land, shall give immediate information to the Police or Abkaree Darogahs, or Opium Gomashstahs, or to the Magistrates, Collectors, or Officers in charge of the Abkaree Mehal, or to the Agents, their Deputies, or Sub-deputies, of all Poppy which may be illegally cultivated within the estates or farms held or managed by them ; and every proprietor, farmer, tihseeldar, gomashstah, or other manager of land, who shall knowingly neglect to give such information, shall be liable to the penalties for illegal cultivation prescribed in the last preceding Section.

Police and
other Officers to
give information
of illegal cultiva-
tion.

XXIII. All Police and Abkaree Darogahs, and Opium Gomashstahs, and all native Officers of Government of whatever description, and all Chowkeydars and other village Pykes Police Officers, shall give immediate information to the authority to which they are subordinate when it may come to their knowledge that any land has been illegally cultivated with Poppy ; and such authority shall transmit the information to the Sub-deputy Agent, or other Officer superintending the cultivation of the Poppy, if in a District where the Poppy is cultivated on account of Government, or to the Collector or officer in charge of the Abkaree Mehal, if in a District where the Poppy is not so cultivated. Every Police or Abkaree Darogah, Opium Gomashstah, Native Officer, Chowkeydar, or other Police Officer as aforesaid, who shall neglect to give such information, or shall in any respect connive at the illicit cultivation of the Poppy, shall be liable to a fine not exceeding one thousand Rupees if the offender be an

Officer of the Opium department, or in any other case to a fine not exceeding five hundred Rupees.

XXIV. Whenever a Police or Abkaree Darogah or Opium Gomashlah shall receive intelligence of any land within his jurisdiction having been illegally cultivated with Poppy, he shall immediately proceed to the spot, and if the information be correct, shall attach the crop so illegally cultivated, and report the same without delay to the authority to which he may be subordinate. He shall at the same time take security from the cultivator of the said land for his appearance before the Magistrate, and in the event of such cultivator not giving the required security, he shall send him in custody to the Magistrate.

Police or Abkaree Darogah how to proceed in case of illegal cultivation.

XXV. Proprietors, farmers, tultseeldars, gomashlahs, and other managers of land, shall be at liberty to attach any Poppy grown in opposition to the provisions of this Act in any estate or farm held or managed by them, and shall immediately report such attachment to the nearest Police or Abkaree Darogah, or Opium Gomashlah, who shall thereupon proceed in conformity with the rules contained in the last preceding Section.

Land-holders, &c., may attach Poppy in cases of illegal cultivation; reporting immediately.

* XXVI. Except as otherwise herein provided, all fines, penalties, and confiscations prescribed by this Act shall be adjudged by the Magistrate on the information of the Deputy Agent or Sub-deputy Agent in Districts in which the Poppy is cultivated on account of Government, and in other Districts on the information of the Collector or officer in charge of the Abkaree Mehal; Provided, that no information of an offence against this Act shall be admitted, unless it be preferred within the period of one year after the commission of the offence to which the information refers.

Adjudication of Penalties

XXVII. When any person is sentenced to pay any fine or penalty under this Act, such person, in default of payment of the same, may be imprisoned by order of the Magistrate for any time not exceeding six months, or until the fine is sooner paid.

Imprisonment in default of payment of fines

**Punishment
for repetition of
offences.**

XXVIII. Whenever any person shall be convicted of an offence against this Act after having been previously convicted of a like offence, he shall be liable, in addition to the penalty attached to such offence, to imprisonment for a period not exceeding six months; and a like punishment of imprisonment not exceeding six months shall be incurred, in addition to the punishment which may be inflicted for a first offence, upon every subsequent conviction after the second.

**Place of im-
prisonment**

XXIX. Every person who shall be imprisoned under the last preceding Section, or on account of the non-payment of any fine or penalty prescribed by this Act, unless such person be an Officer of Government or a village Police Officer convicted of an offence under Section XVII, XX, or XXIII, shall be imprisoned in the Civil Jail.

**Disposal of
fines and forfei-
tures**

XXX. One-half of all fines and penalties levied from persons convicted of offences under Sections XIX, XX, and XXI of this Act, together with a reward of one Rupee eight annas for each seer of Opium confiscated and declared by the Civil Surgeon to be fit for use, shall upon adjudication of the case be awarded to the Officer or Officers who apprehended the offender, and the other half of such fines and forfeitures, together with a reward of one Rupee eight annas for each seer of Opium confiscated as aforesaid, shall be given to the informer. If in any case the fine or penalty is not realized, the Board of Revenue may grant such reasonable reward, not exceeding the sum of two hundred Rupees, as may seem to them fit.

**Government of
India may allow
free cultivation
of Poppy and
manufacture of
Opium in any
District Provi-
so**

XXXI. The Governor General of India in Council may authorize, by an Order of Government, the cultivation of the Poppy and the manufacture of Opium in any District or Districts without license from a Sub-deputy Opium Agent or other Officer of Government; and when such order has been published, all the provisions of this Act shall cease to have effect in such Districts or District. Provided always, that the Government may prescribe rules for the delivery of the Opium so produced to Officers of Government appointed

to receive it; and when such rules have been passed, any cultivator or other person engaged in the cultivation of the Poppy and manufacture of Opium who shall dispose of any Opium otherwise than is allowed by such rules, and any person who shall purchase or receive any such Opium in contravention of the said rules, shall be subject to the penalties prescribed in Section XIX of this Act, and such penalties may be adjudged by a Magistrate on the information of any Officer of Government or of any other person. *

ACT NO. XIV OF 1857.

Extended successively by Acts XIII, XXII, and XXVI, of 1858, and XXXVII, 1859, and XVII, 1860, Section 10, but since expired

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ACT NO XV OF 1857

EXPIRED.

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ACT NO XVI OF 1857.

Extended successively by Acts XXII, 1858, and XXVII, 1859, but since expired

ACT NO. XVII OF 1857

Extended successively by Acts XXII, 1858, and XXVII, 1859, but since expired.

ACT NO. XVIII OF 1857.

EXPIRED.

ACT No. XIX. OF 1857.*

- 1 *Company formed by Memorandum of Association and registration Banking or Insurance Company not to be formed with limited liability*
2. *Penalty on partnerships exceeding a certain number.*
3. *Matters required to be prescribed by Memorandum of Association.*
4. *Prohibition against identity of names in registered Companies.*
5. *Form of Memorandum of Association.*
6. *Shares to be taken by subscribers of Memorandum.*
7. *Special regulations may be prescribed by Articles.*
8. *Form and effect of Articles of Association.*
9. *Use of printed copies of Memorandum or Articles. Attestation of execution.*
10. *Registration of Memorandum of Association and Articles of Association.*
11. *Effect of registration.*
12. *Directors to be liable for debts if dividend be paid contrary to the provisions of the Act, or when the Company is known by them to be insolvent. Proviso.*
13. *Issue of shares by Company.*
14. *Register of shareholders.*
15. *Annual list of shareholders on Register.*
16. *Penalty on Company not keeping a proper Register.*
17. *Restrictive definition of shareholder.*
18. *Transfer of shares.*
19. *Certificate of shares.*
20. *Calls a debt to Company.*
21. *Inspection of Register and annual list of shareholders.*
22. *Power to close Register.*
23. *Remedy for improper entry, or omission of entry in Register.*
24. *Register to be evidence.*
25. *Copies of Memorandum and Articles of Association to be forwarded to shareholders.*
26. *Registered Office of Company.*
27. *Notice of situation of registered Office.*
28. *Publication of name by a limited Company.*
29. *Penalties on non-publication of name.*

* See Act VII, 1860, Section IX, by which this Act is extended to the winding up of all Companies registered under that Act.

30. *General Meeting of Company.*
31. *What account to be kept.*
32. *Balance-sheet to be made out annually and filed with the Registrar. Form of balance-sheet.*
33. *Balance-sheet to be signed and certified by the Directors.*
34. *No dividend payable except out of profits.*
35. *Audit.*
36. *Inspection of balance-sheet and of Report of Auditors thereon.*
37. *Appointment of Auditors.*
38. *Power of Company to alter Regulations by special resolution.*
39. *Definition of special resolution.*
40. *Registry of special resolution.*
41. *Copies of special resolutions.*
42. *Notice to Registrar of increase of capital.*
43. *Prohibition against carrying on business with less than seven shareholders.*
44. *Evidence of proceedings at Meetings.*
45. *Contracts how made.*
46. *Execution of deeds.*
47. *Promissory Notes, Bills of Exchange, and Hoondees.*
48. *Examination of affairs of Company by Inspectors appointed by the local Government.*
49. *Power of Inspectors.*
50. *Result of examination how dealt with.*
51. *Power of Company to appoint Inspectors.*
52. *Report of Inspectors to be evidence.*
53. *Services of notices on Company.*
54. *Rules as to notices by letter.*
55. *Authentication of notices of Company.*
56. *Adjudication of offences and recovery of penalties.*
57. *Government of India may alter Forms in Schedule.*
58. *Application of Part III. of Act.*
59. *Meaning of the expression "the Court" as used in Part III of the Act.*
60. *Liability of present Shareholders in respect of debts.*
61. *Liability of former shareholders in a Company other than a limited Company with respect to debts.*
62. *Liability of former shareholders in a limited Company with respect to debts and liabilities.*
63. *Commencement of winding-up of Company defined.*
64. *Definition of "contributory," and legal character of his liability.*

65. *Rights of contributories between themselves.*
66. *Circumstances under which Company may be wound-up by Court.*
67. *Company when deemed unable to pay its debts.*
68. *Application for winding-up to be by petition.*
69. *Course to be pursued by Court on petition of a creditor.*
70. *Order for winding-up Company on creditor's petition.*
71. *Course to be pursued by Court on petition of contributory.*
72. *Effect of the order for winding-up Company.*
73. *Collection and application of Assets.*
74. *Fraudulent preference.*
75. *Power of Court to summon persons suspected of having property of Company.*
76. *Penalty on falsification of books.*
77. *Executions upon certain judgments within three months of petition to be void.*
78. *Books of Company to be evidence.*
79. *Power of Court to make calls.*
80. *Recovery of calls.*
81. *Calls may be made upon former shareholders in respect of shares.*
82. *Payment of money into Court.*
83. *Power of Court to grant injunction.*
84. *Power of Court to stay proceedings.*
85. *Power of Court to adjust rights of contributories.*
86. *Power of Court to order costs.*
87. *Appointment of Official Liquidators.*
88. *Style and duties of Official Liquidators.*
89. *Powers of Official Liquidators.*
90. *Remuneration of Official Liquidators.*
91. *Dissolution of Company.*
92. *Registrar to make minute of dissolution of Company.*
93. *Circumstances under which Company may be wound-up voluntarily.*
94. *Notice of resolution to wind-up voluntarily.*
95. *Consequences of voluntary wind-up.*
96. *Saving of rights of creditors.*
97. *Registration.*
98. *Repeal of Act XLIII. of 1850.*
99. *Registration of existing Companies.*
100. *Requisitions for registration by existing Companies.*
101. *Authentication of statements of existing Companies.*
102. *Certificate of registration of existing Companies.*

- 103. *Power of Company to change name.*
- 104. *Certificate to be evidence of compliance with Act.*
- 105. *Saving rights of creditors.*

An Act for the incorporation and regulation of Joint-Stock Companies and other Associations, either with or without limited liability of the Members thereof.

WHEREAS it is expedient that the law relating to the incorporation and regulation of Joint-Stock Companies and other Associations should be amended, and that the members of Joint-Stock Companies and other Associations should be enabled to limit their liability for the debts and engagements thereof: It is enacted as follows.—

PART I.

CONSTITUTION AND INCORPORATION OF COMPANIES AND ASSOCIATIONS.

Registry.

* I. Seven or more persons, associated for any lawful purpose, may, by subscribing their names to a Memorandum of Association, and otherwise complying with the requisitions of this Act in respect of registration, form themselves into an incorporated Company, with or without limited liability. Provided, that nothing in this Act shall authorize any persons to form themselves into a Joint-Stock Company or Association, with limited liability, for the purpose of Banking or Insurance.

Company to be formed by Memorandum of Association and registration Banking or Insurance Company not to be formed with limited liability.

II. Not more than twenty persons shall after the first day of January 1858 carry on in partnership, in any part of the territories in the possession and under the government of the East India Company, any trade or business having gain for its object, unless they are registered as a Company under this Act, or are authorized so to carry on business by an Act of Parliament, or by Royal Charter or Letters Patent, or by an Act of the Governor General of

Penalty on partnerships exceeding a certain number.

* This Section has been modified by Act VII, 1860.

India in Council; and if any persons carry on business in partnership contrary to this provision, every person so acting shall be severally liable for the payment of the whole debts of the partnership, and may be sued for the same without the joinder in the action or suit of any other members of the partnership.

Matters re-
quired to be
prescribed by
Memorandum
of Association

III. The Memorandum of Association shall contain the following things: (that is to say)—

- (1.) The name of the proposed Company;
- (2.) The part of the said territories in which the registered Office of the Company is to be established;
- (3.) The objects for which the proposed Company is to be established;
- (4.) The liability of the shareholders, whether it is to be limited or unlimited;
- (5.) The amount of the nominal Capital of the proposed Company;
- (6.) The number of shares into which such Capital is to be divided, and the amount of each share.

In the case of a Company formed with limited liability, and hereinafter called a limited Company, the word "limited" shall be the last word in the name of the Company.

Prohibition
against identity
of names in re-
gistered Compa-
nies.

IV. No Company shall be registered under a name identical with that by which a subsisting Company is already registered, or so nearly resembling the same as to be calculated to deceive; and if any Company, through inadvertence or otherwise, is registered by a name identical with that by which a subsisting Company is registered, or so nearly resembling the same as to be calculated to deceive, such first-mentioned Company may, with the sanction of the Registrar, and shall, if required by him so to do, change its name, and upon such change being made, the Registrar shall enter the new name on the Register in the place of the former name; but no such alteration of name shall affect any rights or obligations of the Company or of any member thereof, or render defective any legal proceedings instituted or to

be instituted by or against the Company ; and any legal proceedings may be continued or commenced against the Company by its new name, that might have been continued or commenced against the Company by its former name.

V. The Memorandum of Association shall be in the form marked A in the Schedule hereto, or as near thereto as circumstances admit ; and it shall, when registered, bind the Company and the shareholders therein to the same extent as if each shareholder had subscribed his name and affixed his seal thereto, or otherwise duly executed the same, and there were in such Memorandum contained, on the part of himself, his heirs, executors, administrators, or representatives, a covenant to conform to all the regulations of such Memorandum, subject to the provisions of this Act.

Form of Memorandum of Association.

VI. Every subscriber of the Memorandum of Association shall take one share at the least in the Company ; the number of shares taken by each subscriber shall be set opposite his name in such Memorandum of Association ; and upon the incorporation of the Company, he shall be entered in the Register of shareholders hereinafter mentioned as a shareholder to the extent of the shares he has taken.

Shares to be taken by subscribers of Memorandum

VII. The Memorandum of Association may be accompanied by, or have annexed thereto, or endorsed thereon, Articles of Association signed by the subscribers to the Memorandum of Association, prescribing regulations for the Company ; but if no such regulations are prescribed, or so far as the same do not extend to modify the regulations contained in the Table marked B in the Schedule hereto, such last-mentioned regulations shall, so far as the same are applicable, be deemed to be the regulations of the Company, and shall bind the Company and the shareholders therein to the same extent as if they had been inserted in Articles of Association, and such Articles had been registered.

Special regulations may be prescribed by Articles of Association

VIII. The Articles of Association shall be in the form marked C in the Schedule hereto, or as near thereto as circumstances admit ; they shall, when registered, bind the

Form and effect of Articles of Association.

Company and the shareholders therein to the same extent as if each shareholder had subscribed his name and affixed his seal thereto, or otherwise duly executed the same, and there were in such Articles contained, on the part of himself, his heirs, executors, administrators, or representatives, a covenant to conform to all the regulations of such Articles, subject to the provisions of this Act.

Use of printed copies of Memorandum or Articles. Attestation of execution.

IX. Any person signing a printed copy of the Memorandum of Association, or Articles of Association, shall be deemed to have signed such Memorandum and Articles respectively. The execution by any person of the Memorandum of Association or Articles of Association shall be attested by one witness at the least.

Registration of Memorandum and of Articles.

X. The Memorandum of Association and Articles of Association shall be delivered to the Registrar of Joint-Stock Companies, who shall retain and register the same; there shall be paid to the Registrar of Joint-Stock Companies, in respect of the several matters mentioned in the Table marked D in the Schedule hereto, the several fees therein specified, or such smaller fees as the Governor General of India in Council may from time to time direct; and all fees so paid shall be accounted for to Government.

Effect of registration.

XI. Upon any such Memorandum of Association, either with or without Articles of Association as aforesaid, being registered, the Registrar shall certify under his hand that the Company is incorporated, and in the case of a limited Company, that the Company is limited. The subscribers of the Memorandum of Association, together with such other persons as may from time to time become shareholders in the Company, shall thereupon be a body corporate by the name prescribed in the Memorandum of Association, having a perpetual succession and a common seal, with power to hold lands, but with such pecuniary liability on the part of the shareholders as is hereinafter mentioned. The certificate of incorporation given by the Registrar shall be conclusive evidence that all the requisitions of this Act in respect of registration have been complied with; and the date of such

certificate shall be deemed to be the date of the incorporation of the Company.

XII. If the Directors of any such Company shall declare and pay any dividend contrary to the provisions of this Act or when the Company is known by them to be insolvent, or any dividend the payment of which would, to their knowledge, render it insolvent, they shall be jointly and severally liable for all the debts of the Company then existing, and for all that shall be thereafter contracted, so long as they shall respectively continue in office; Provided always, that the amount for which they shall all be so liable shall not exceed the amount of such dividend, and that, if any of the Directors shall be absent at the time of making the dividend or dividends so declared or paid, or if present and objecting thereto shall file their objection in writing with the Clerk of the Company, and shall forthwith publish notice of such objection in the *Official Gazette* or in some newspaper circulating in the place in which the registered Office of the Company is situate, they shall be exempted from the said liability.

Directors to be liable for debts to the extent of the dividend, if dividend be paid contrary to the Act, or when the Company is known by them to be insolvent.

XIII. As soon as a certificate of incorporation has been granted by the Registrar of Joint-Stock Companies, the Company may issue certificates of shares to the subscribers to the Memorandum of Association, and to all other persons to whom shares may be allotted, of such number and amount as may be prescribed by the Memorandum of Association, but not of any greater number or amount: the shares so issued shall be personal estate, and shall not be of the nature of real estate, and each share shall be distinguished by its appropriate number.

Issue of shares by Company.

Register of Shareholders.

XIV. Every Company registered under this Act, hereinafter referred to as "the Company," shall cause to be kept in one or more books a register of shareholders, and there shall be entered therein the following particulars:—

Register of shareholders.

- (1.) The names, addresses, and occupations, if any, of the shareholders in the Company, and the

shares held by each of them, distinguishing each share by its number ;

- (2.) The amount paid on the shares of each shareholder ;
- (3.) The date at which the name of any person was entered in the Register as a shareholder ;
- (4.) The date at which any person ceased to be a shareholder in respect of any share.

Annual list of
shareholders on
Register.

XV. Once at the least in every year a list shall be made of all persons who, on the fourteenth day succeeding the day on which the ordinary general meeting of the Company, or if there is more than one ordinary meeting in each year, the first of such ordinary general meeting is held, are holders of shares in the Company ; and such list shall state the names, addresses, and occupations of all the persons therein mentioned, and the number of shares held by each of them, and shall contain a summary specifying the following particulars :—

- (1.) The amount of the nominal Capital of the Company, and the number of shares into which it is divided ;
- (2.) The number of shares taken from the commencement of the Company up to the date of the summary ;
- (3.) The amount of calls made on each share ;
- (4.) The total amount of calls that have been received ;
- (5.) The total amount of calls unpaid ;
- (6.) The total amount of shares forfeited.

The above list and summary shall be contained in a separate part of the Register, and shall be in the form marked E in the Schedule hereto, or as near thereto as circumstances admit : such list and summary shall be completed within seven days after such fourteenth day as is mentioned in this Section, and a copy thereof, authenticated by the seal of the Company, shall forthwith be forwarded to the Registrar ; and any person may inspect and take copies of the same, subject to the regulations under which a person

is hereinafter declared to be entitled to inspect and take copies of any documents kept by the Registrar.

XVI. If any Company registered under this Act makes default in keeping a Register of shareholders, or in sending a copy of such list and summary as aforesaid to the Registrar in compliance with the foregoing rules, such Company shall incur a penalty not exceeding fifty Rupees for every day during which such default continues.

Penalty on Company not keeping a proper Register.

XVII. No notice of any trust, express or implied or constructive, shall be entered on the Register or be receivable by the Company; and every person who has accepted any share in a Company registered under this Act, and whose name is entered in the Register of shareholders, and no other person (except a subscriber to the Memorandum of Association in respect of the shares subscribed for by him) shall, for the purposes of this Act, be deemed to be a shareholder.

Restrictive definition of shareholder.

XVIII. The transfer of any share in the Company shall be in the form marked F in the Schedule hereto, or to the like effect, and shall be executed both by the transferrer and transferee; the transferrer shall be deemed to remain a holder of such share, until the name of the transferee is entered in the Register-book in respect thereof.

Transfer of shares.

XIX. A certificate, under the common seal of the Company, specifying any share or shares held by any shareholder, shall be *prima facie* evidence of the title of the shareholder to the share or shares therein specified.

Certificate of shares

XX. The amount of calls, for the time being unpaid on any share, shall be deemed to be a debt due from the holder of such share to the Company.

Calls to be a debt to Company.

XXI. The Register and annual list of shareholders, commencing from the incorporation of the Company, shall be kept at the registered Office of the Company hereinafter mentioned; except when the Register is closed as hereinafter mentioned, such Register and annual list shall, during business hours, but subject to such reasonable restrictions as the Company in General Meeting may impose, so that not less than two hours in

Inspection of Register and annual list of shareholders

each day be appointed for inspection, be opened to the inspection of any shareholder gratis, and to the inspection of any other person on the payment of one Rupee, or such less sum as the Company may prescribe for each inspection; and every such shareholder or other person may require a copy of such Register and annual list, or of any part thereof, on payment of two annas for every one hundred words required to be copied; if such inspection or copy is refused, the Company shall incur for each refusal a penalty not exceeding Fifty Rupees, and a further penalty not exceeding Twenty Rupees for every day during which such refusal continues.

**Power to close
Register**

XXII. The Company may, upon giving notice by advertisement in some newspapers circulating in that part of the said territories in which the registered Office of the Company is situate, close the Register of shareholders for any time or times not exceeding on the whole twenty-one days in each year; and the period, during which the books are closed, shall not be reckoned as part of the time within which a transfer is to be registered.

**Remedy for
improper entry,
or omission of
entry in Register**

XXIII. If the name of any person is without sufficient cause entered or omitted to be entered in the Register of shareholders of any Company, such person, or any shareholder of the Company, may, by petition to the principal Court of original Civil jurisdiction in the district or place in which the registered Office of the Company is situate, apply to such Court for an order that the Register may be rectified; and the Court may either refuse such application, with or without costs to be paid by the applicant, or it may, if satisfied of the justice of the case, make an order for the rectification of the Register, and may direct the Company to pay all the costs of such motion or petition, and any damages the party aggrieved may have sustained; and if the Company makes default, or is guilty of unnecessary delay in registering any transfer of shares, they shall be responsible to any person injured by such default or delay for the amount of damage he may thereby have sustained.

XXIV. The Register of shareholders shall be *prima facie* evidence of any matters by this Act directed or authorized to be inserted therein.

Register to be evidence.

XXV. Copies of the Memorandum of Association and Articles of Association shall be forwarded by the Company to every shareholder, at his request, on payment of the sum of one Rupee for each copy, or such less sum as may be prescribed by the Company.

Copies of Memorandum and Articles to be forwarded to shareholders.

PART II.

MANAGEMENT AND ADMINISTRATION OF COMPANIES.

General.

XXVI. The Company shall have a registered Office to which all communications and notices may be addressed; if any Company registered under this Act carries on business without having such an Office, it shall incur a penalty not exceeding Fifty Rupees for every day during which business is so carried on.

Registered Office of Company.

XXVII. Notice of the situation of such registered Office, and of any change therein, shall be given to the Registrar of Joint-Stock Companies, and recorded by him: until such notice is given, the Company shall not be deemed to have complied with the provisions of this Act with respect to having a registered Office.

Notice of situation of Registered Office.

XXVIII. Every limited Company registered under this Act shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the Company is carried on, in a conspicuous position, in letters easily legible in the English language and also in the language required to be used in judicial proceedings in the Courts of the East India Company in the District in which the registered office is situate, and shall have its name engraven in legible characters in such languages on its seal, and shall have its name mentioned in legible characters in such languages in all notices, advertisements, and other

Publication of name by a limited Company.

official publications of such Company, and in all Bills of Exchange, Hoondees, Promissory Notes, Endorsements, Cheques, and orders for money or goods, purporting to be signed by or on behalf of such Company, and in all bills of parcels, invoices, receipts, and letters of credit of the Company.

Penalties on
non-publication
of name

XXIX. If any limited Company registered under this Act does not paint or affix, and keep painted or affixed, its name in manner aforesaid, it shall be liable to a penalty not exceeding Fifty Rupees for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed; and if any officer of such Company, or any person on its behalf, uses any seal purporting to be a seal of the Company whereon its name is not so engraven as aforesaid, or issues or authorizes the issue of any notice, advertisement, or other official publication of such Company, or signs or authorizes to be signed on behalf of such Company any Bill of Exchange, Hoondee, Promissory Note, Endorsement, Cheque, or order for money or goods, or issues or authorizes to be issued any Bill of parcels, invoice, receipt, or letter of credit of the Company, wherein its name is not mentioned in manner aforesaid, he shall be liable to a penalty of Five Hundred Rupees, and shall further be personally liable to the holder of any such Bill of Exchange, Hoondee, Promissory Note, Cheque, or order for money or goods, for the amount thereof, unless the same is duly paid by the Company.

General Meet-
ings.

XXX. A General Meeting of the Company shall be held once at the least in every year.

What accounts
to be kept.

XXXI. The Directors shall cause true accounts to be kept—

Of the Stock-in-Trade of the Company ;

Of the sums of money received and expended by the Company, and the matter in respect of which such receipt and expenditure takes place ; and,

Of the credits and liabilities of the Company.

Balance-sheet
to be made out
annually and
filed with the

XXXII. A balance-sheet shall be made out and filed with the Registrar of Joint-Stock Companies within twelve

months after the incorporation of the Company, and once at least in every year afterwards within twelve months from the filing of the balance-sheet immediately preceding. Such balance-sheet shall contain a summary of the property and liabilities of the Company arranged under the heads appearing in the form annexed to Table B in the Schedule hereto, or as near thereto as circumstances admit.

**Registrar. Form
of balance-sheet.**

• XXXIII. The balance-sheet shall be signed by the Directors or any three or more of them, who shall certify at the foot thereof that the same, to the best of their belief, contains a true account of the capital and liabilities and of the property and assets of the Company.

**Balance-sheet
to be signed and
certified by the
Directors**

XXXIV. No dividend shall be payable, except out of the profits arising from the business of the Company including interest on capital.

**No dividend
payable except
out of profits.**

XXXV. The accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained, by one or more Auditor or Auditors who shall certify, at the foot of such balance-sheet, that the same, to the best of their belief, contains a true account of the capital and liabilities and of the property and assets of the Company, or make such special report thereon as they think necessary.

Audit.

XXXVI. A copy of every balance-sheet and of the report thereon by the Auditors shall be kept at the registered Office of the Company, and shall be open to inspection in the same manner as the Register of shareholders kept at such office.

**Inspection of
balance-sheet
and of Report of
Auditors there-
on.**

• XXXVII. Unless other provisions shall be contained in the regulations of the Company for the appointment of Auditors, the Auditors shall be appointed at the first General Meeting of the Company in every year, and, in the case of any casual vacancy occurring in such office, at an extraordinary General Meeting called for the purpose of supplying the same. No Director or other officer shall be eligible as an Auditor,

**Appointment
of Auditors.**

Power to alter
Regulations by
special resolution.

XXXVIII. Any Company registered under this Act may in General Meeting, from time to time, by such special resolution as is hereinafter mentioned, alter and make new provisions in lieu of or in addition to any regulations of the Company contained in the Articles of Association or the Table marked B in the Schedule.

Definition of
special resolution.

XXXIX. A resolution shall be deemed to be a special resolution of the Company, whenever the same has been passed by three-fourths in number and value of such shareholders of the Company, for the time being entitled to vote, as may be present in person or by proxy (in cases where, by the regulations of the Company, proxies are allowed) at any meeting of which notice specifying the intention to propose such resolution has been duly given, and such resolution has been confirmed by a majority of such Shareholders, for the time being entitled to vote, as may be present in person or by proxy at a subsequent meeting of which notice specifying the intention to propose such confirmation has been duly given, and held at an interval of not less than one month, nor more than three months, from the date of the meeting at which such special resolution was first passed. Unless a poll is demanded by at least five shareholders, a declaration of the Chairman of any such meeting as is mentioned in this Section, that a special resolution has been carried or confirmed, shall be deemed conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favor of or against the same. Notice of any meeting shall, for the purposes of this Section, be deemed to be duly given, and the meeting to be duly held, whenever such notice is given and meeting held in manner prescribed by the regulations of the Company.

Registry of special resolution

XL. A copy of any special resolution that is passed by any Company registered under this Act shall be forwarded to the Registrar of Joint-Stock Companies, and recorded by him; if such copy is not so forwarded within fifteen days from the date of the passing of the resolution.

tion, the Company shall incur a penalty not exceeding Twenty Rupees for every day after the expiration of such fifteen days, during which such copy is omitted to be forwarded.

XLI. A copy of any special resolution shall be given to any shareholder on payment of one Rupee or of such less sum as the Company may direct.

Copies of special resolutions

XLII. The Company, if authorized so to do by its regulations, may increase its nominal capital in manner directed by such regulations; but notice of any increase so made shall be given to the Registrar of Joint-Stock Companies within fifteen days from the date of the passing of the resolution by which such increase has been authorized, and the Registrar shall forthwith record the amount of such increase; if such notice is not given within the period aforesaid, the Company shall incur a penalty not exceeding Fifty Rupees for every day during which such neglect to give notice continues.

Notice to Registrar of increase of capital.

XLIII. If any Company registered under this Act carries on business when the number of its shareholders is less than seven, for a period of six months after the number has been so reduced, then every Director of such Company, during the time that it so carries on business after such period of six months, shall be severally liable for the payment of the whole debts of the Company contracted during such time, and may be sued for the same without the joinder in the action or suit of any other person.

Prohibition against carrying on business with less than seven shareholders.

XLIV. The Company shall cause Minutes of all resolutions and proceedings of General Meetings of the Company to be duly entered in books to be from time to time provided for the purpose, and any such Minute as aforesaid, if signed by any person purporting to be the Chairman of such meeting, shall be receivable in evidence in all legal proceedings; and, until the contrary is proved, every General Meeting, in respect of the proceedings of which Minutes have been so made, shall be deemed to have been duly held and convened.

Evidence of proceedings at Meetings.

Legal Instruments of Company.

Contracts how
to be made.

XLV. Contracts on behalf of any Company registered under this Act may be made as follows; (that is to say)—

(1) Any contract which, if made between private persons, would be by law required to be in writing, and if made according to English law to be under seal, may be made on behalf of the Company in writing under the common seal of the Company; and such contract may be in the same manner varied or discharged.

(2) Any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith, may be made on behalf of the Company in writing signed by any person acting under the express or implied authority of the Company; and such contract may in the same manner be varied or discharged.

(3) Any contract which, if made between private persons, would by law be valid although made verbally only and not reduced into writing, may be made verbally on behalf of the Company by any person acting under the express or implied authority of the Company; and such contract may in the same way be varied or discharged.

And all contracts made according to the provisions herein contained shall be effectual in law, and shall be binding upon the Company and their successors, and all other parties thereto, their heirs, executors, administrators, or representatives, as the case may be.

Deeds.

Execution of
deeds.

XLVI. Any Company registered under this Act may, by instrument or writing under their common seal, empower any person either generally or in respect of any specified matters, as their attorney, to execute deeds on their behalf in any place; and every deed signed by such attorney, on behalf of the Company, and under his seal, shall be binding on the Company to the same extent as if it were under the common seal of the Company.

XLVII. A Promissory Note, Bill of Exchange, or Hoondee shall be deemed to have been made, accepted, or endorsed on behalf of any Company registered under this Act, if made, accepted, or endorsed in the name of the Company by any person acting under the express or implied authority of the Company.

Promissory
Notes, Bills of
Exchange, and
Hoondees

Examination of Affairs of Company.

XLVIII. Upon the application of one-fifth in number and value of the shareholders of any Company registered under this Act, the local Government may appoint one or more competent Inspectors to examine into the affairs of the Company, and to report thereon in such manner as the local Government directs.

Examination
of affairs of Com-
pany by Govern-
ment Inspectors

XLIX. It shall be the duty of all Officers and Agents of the Company to produce, for the examination of the Inspectors, all books and documents in their custody or power : any Inspector may examine the Officers and Agents of the Company in relation to its business, and may, if he thinks fit, administer an oath or affirmation to such person ; if any Officer or Agent refuses to produce any such book or document, or to answer any question relating to the affairs of the Company, he shall incur a penalty not exceeding Fifty Rupees in respect of each offence.

Power of
Inspectors of

L. Upon the conclusion of the examination, the Inspectors shall report their opinion to the local Government ; a copy shall be forwarded to the registered Office of the Company and shall be open to the inspection of any shareholder who shall be at liberty to take a copy thereof ; and a further copy shall, at the request of the shareholders upon whose application the inspection was made, be delivered to them or to any one or more of them : all expenses of and incidental to any such examination as aforesaid shall be defrayed by the shareholders upon whose application the Inspectors were appointed.

Result of ex-
amination how
to be dealt with

LI. Any Company registered under this Act may in General Meeting appoint Inspectors for the purpose of examin-

Power of Com-
pany to appoint
Inspectors

ing into the affairs of the Company ; the Inspectors so appointed shall have the same powers and perform the same duties as Inspectors appointed by the local Government, with this exception, that, instead of making their report to the local Government, they shall make the same in such manner and to such persons as the Company in general meetings directs ; and the Officers and Agents of the Company shall incur the same penalties, in case of any refusal to produce any book or document to such Inspectors, or to answer any question, as they would have incurred if such Inspectors had been appointed by the local Government.

Report of Inspectors to be evidence.

LII. A copy of the report of any Inspectors appointed under this Act, authenticated by the sale of the Company into whose affairs they have made inspection, shall without further proof be admissible as evidence of the report in any legal proceeding.

Notices.

Services of notices on Company.

LIII. Any summons or notice requiring to be served upon the Company may, except in cases where a particular mode of service is directed, be served by leaving the same, or sending it through the post by a registered letter addressed to the Company at their registered Office, or by giving it to any Director, Secretary, or other principal Officer of the Company ; and any notice to the Registrar of Joint-Stock Companies may be served by sending it to him through the post by a registered letter, or by delivering it to him, or by leaving it for him at his Office.

Rules as to notices by letter

LIV. Notices by letter shall be posted in such time as to admit of the letter being delivered in the due course of delivery within the period (if any) prescribed for the giving of such notice ; and in proving such service it shall be sufficient to prove that such notice was properly directed, and that it was put into the Post Office at such time as aforesaid.

Authentication of notices of Company.

LV. Any summons, notice, writ, or proceeding requiring authentication by the Company may be signed by any Director, Secretary, or other authorized Officer of the Com-

pany, and need not be under the common seal of the Company; and the same may be in writing or in print, or partly in writing and partly in print.

LVI. All offences under this Act, made punishable by any penalty, may be prosecuted summarily before a Magistrate or any person exercising the powers of a Magistrate. The provisions of Act XIII of 1856, relating to the adjudication of fines and penalties and the enforcing payment thereof, shall apply to penalties imposed under this Act in the Towns of Calcutta, Madras, and Bombay, and Settlement of Prince of Wales' Island, Singapore, and Malacca.

**Adjudication
of offences and
recovery of pe-
nalties.**

Alteration of Forms.

LVII. The Governor General of India in Council may from time to time make such alterations in the Forms and Tables contained in the Schedule hereto as may be deemed requisite: any Form or Table, when altered, shall be published in the *Calcutta Gazette*, and, after the expiration of one month from the date of such publication, shall have the same force as if it were included in the Schedule to this Act.

**Government
of India may
alter Forms in
Schedule.**

PART III.

WINDING-UP.

Preliminary.

LVIII. The provisions of this Act relating to the winding-up of Companies shall apply to all Companies registered under this Act, and to all Companies registered under Act XLIII of 1850 or duly constituted by law previously to the passing of this Act, from and after the date at which they have obtained registration under this Act in manner herein-after mentioned, but not to any other Companies.

**Application of
Part III of Act.**

LIX. The expression "the Court," as used in the Third Part of this Act, shall mean the principal Court having original Civil jurisdiction in the place in which the registered Office of the Company is situate; unless in the regulations for the

**Meaning of the
expression "the
Court" as used in
Part III.**

management of the Company it shall be stipulated that the said Company, if wound-up shall be wound-up by the Supreme Court of Judicature for the Presidency in which the registered Office of the Company is situate, or, if the registered Office is not situate within any Presidency or in the settlement of Prince of Wales' Island, Singapore, and Malacca, that it shall be wound-up by such Supreme Court as shall be stipulated by such regulation in either of which cases the word "Court" shall mean the Supreme Court of Judicature mentioned in such stipulation.

Liability of
present Share-
holders in res-
pect of debts.

LX. In the event of any Company being wound-up by the Court or voluntarily, the existing shareholders shall be liable to contribute to the assets of the Company to an amount sufficient to pay the debts and liabilities of the Company, and the costs, charges, expenses of winding the same, with this qualification, that, if the Company is limited, no contribution shall be required from any shareholder exceeding the amount, if any, unpaid on the shares held by him.

Liability of
former share-
holders in an
unlimited Com-
pany with res-
pect to debts.

LXI. In the event of any Company other than a limited Company being wound-up by the Court, any person who has ceased to be a shareholder within the period of three years prior to the commencement of the winding-up shall be liable to contribute, in respect of the shares held by him within that period, towards payment of the debts and liabilities of the Company, and the costs, charges, and expenses of winding-up the same, and shall have in all respects the same rights and be subject to the same liabilities to creditors in respect of such shares, as if he had not so ceased to be a shareholder, with this exception that he shall not be liable in respect of any debt or liability of the Company contracted after the time at which he ceased to be a shareholder.

Liability of
former share-
holders in a
limited Compa-
ny.

LXII. In the event of any limited Company being wound-up by the Court, any person who has ceased to be a holder of any share or shares within the period of one year prior to the commencement of the winding-up shall be liable in respect of such share or shares to contribute towards payment of the debts and liabilities of the Company, and the costs, charges

and expenses of winding-up the same, and shall have in all respects the same right and be subject to the same liabilities to creditors in respect of such share or shares as if he had not so ceased to be a shareholder.

LXIII. The winding-up shall, if the Company is wound-up by the Court, be deemed to commence at the time of the presentation of such petition as is hereinafter required to be presented to the Court ; and, if the Company is wound-up voluntarily, be deemed to commence at the time of the passing of the resolution authorizing such winding-up.

Commence-
ment of winding-
up of Company
defined

LXIV. Any existing or former shareholder, upon whom calls are authorized to be made by the Third Part of this Act, is hereinafter called a "contributory"; and the representatives of any deceased contributor shall be liable in a due course of administration to the same extent as such contributory would be liable under this Act if alive.

Definition of
"contributory,"
and legal charac-
ter of his liabili-
ty.

LXV. For the purpose of ascertaining the liability of existing and former shareholders as between themselves, the following rule shall be adopted in the absence of any express contract to the contrary ; (that is to say)—

Rights of con-
tributories be-
tween them-
selves.

(1.) In the case of a Company other than a limited Company, every transferee of shares shall, in a degree proportioned to the shares transferred, indemnify the transferrer against all existing and future debts of the Company.

(2.) In the case of a limited Company, every transferred shall indemnify the transferred against all calls made or accrued due on the shares transferred subsequently to the transfer.

Winding-up by Court.

LXVI. A Company may be wound-up by the Court under the following circumstances ; (that is to say)—

When Compa-
ny may be
wound-up by the
Court.

(1.) Whenever the Company in general meeting has passed a special resolution requiring the Company to be wound-up by the Court ;

(2.) Whenever the Company does not commence its business within a year from its incorporation, or suspends its business for the space of a whole year ;

(3.) Whenever the shareholders are reduced in number to less than seven ;

(4.) Whenever the Company is unable to pay its debts ;

(5.) Whenever three-fourths of the Capital of the Company have been lost or become unavailable.

Company when
to be deemed un-
able to pay its
debts.

LXVII. A Company shall be deemed to be unable to pay its debts—

(1.) Whenever a creditor, to whom the Company is indebted in a sum exceeding Five Hundred Rupees then due, has served on the Company, by leaving or causing to be left at their registered Office, a demand under his hand requiring the Company to pay the sum so due, and the Company have, for the space of three weeks succeeding the service of such demand, neglected to pay such sum, or to secure or compound for the same to the satisfaction of the creditor ;

(2.) Whenever satisfaction of a judgment, decree, or order of any Court in favor of any creditor in any suit or other legal proceeding cannot be obtained.

Application for
winding-up to be
by petition.

LXVIII. Any application for the winding-up of a Company shall be by petition accompanied by a declaration signed by the petitioner stating that he verily believes the same to be true : such petition may, in cases where the Company is unable to pay its debts, be presented either by a creditor or a contributory, but where any other ground is alleged for winding-up the Company, a contributory alone is entitled to present the petition.

Course to be
pursued by Court
on petition of a
creditor.

LXIX. Upon the hearing of any petition presented by a creditor, the Court may dismiss such petition with or without costs to be paid by the petitioner. or it may make an order directing the Company, by a day to be named in the order, to pay or secure payment to the creditor of all monies that may be proved due to him, together with such costs as the Court may direct ; or the Court may, if it so thinks fit, on the hearing of such petition, make an order or decree for winding-up the Company in the first instance, or such other order as it deems just.

LXX. If, at the expiration of the time named in such order, such payment is not made, or security given, the Court may thereupon make an order or decree for winding-up the Company.

Order for winding-up Company on creditor's petition.

LXXI. Upon the hearing of a petition presented by a contributory, the Court may dismiss such petition with or without costs to be paid by the petitioner, or it may make an order or decree directing the Company to be wound-up, or such other order or decree as it deems just.

Course to be pursued by Court on petition of contributory.

LXXII. After the date of such order or decree for winding-up the Company, all suits and actions against the Company shall, if the Court so orders, be stayed: no Director or other Officer of the Company shall, without the sanction of the Court, dispose of any of the property, effects, or things in action of the Company; and no transfer of any shares shall be valid without the sanction of the Court: a copy of such order or decree shall forthwith be reported by the Company to the Registrar of Joint-Stock Companies, who shall make a minute thereof in his books relating to the Company.

Effect of the order for winding-up Company.

LXXIII. As soon as may be after making an order or decree for winding-up the Company, the Court shall cause the assets of the Company to be collected, and applied in discharge of its liabilities, in a due course of administration.

Collect on and application of

LXXIV. Any conveyance, mortgage, delivery of goods, payment, or other act relating to property, if made, done, or suffered voluntarily by any Company registered under this Act whilst in insolvent circumstances, with a view to give any undue or fraudulent preference to any creditor of such Company, shall be void if made, done, or suffered within three months before the commencement of the winding-up of such Company.

Fraudulent preference.

LXXV. After an order or decree for winding-up the Company has been made, any person known or suspected to have in his possession any of the estate or effects of the Company, or supposed to be indebted to the Company, and

Power of Court to summon persons suspected of having property of Company.

any person whom the Court may deem capable of giving information concerning the trade, dealings, estate, or effects of the Company, may be compelled to give evidence, and to produce any books, papers, deeds, writings, or other documents in his custody or power which may appear to the Court requisite to the full disclosure of any of the matters which the Court thinks necessary to be enquired into for the purpose of winding-up the Company, in the same manner as a witness may be compelled to give evidence and to produce documents in any action or suit depending in such Court.

Penalty
falsification
books on
of

LXXVI. If any Director, Officer, or Contributory of any Company registered under this Act destroys, mutilates, alters, or falsifies any books, papers, writings, or securities, or make or is privy to the making of any false or fraudulent entry in any register, book of account, or other documents belonging to the Company, with intent to defraud the creditors or contributories of such Company or any of them or any other person, every person so offending shall, upon conviction, be liable to imprisonment, with or without hard labor, for any term not exceeding two years.

Executions
upon certain
judgments with-
in three months
of petition to be
void.

LXXVII. If, upon any judgment or decree voluntarily suffered by any Company being insolvent to any person with intent to give such person a preference over other creditors of the Company, any attachment, sequestration, or execution is issued against such Company, by virtue whereof the estate and effects of the Company, or any of them, are attached, sequestered, or taken in execution, at any time within three months next before the filing or presentation of the petition for winding-up the Company, such attachment, sequestration, or taking in execution shall be void in favor of the Liquidators of the Company, as against the attaching, sequestering, or execution creditor, whether the same has been completely executed or not, except that such creditor shall, if the attachment, sequestration, or execution would have been valid but for this provision, be entitled to retain, out of any money already realized, his costs of suit, and of the attachment, sequestration, or execution, or to proceed

with the attachment, sequestration, or execution for the purpose of realizing such costs; but on satisfaction of such costs, or on tender of the amount thereof by the Liquidators to the creditor, it shall be lawful for the Liquidators to recover from such creditor the property so attached, sequestered, and taken in execution, and the proceeds of such property, or the residue thereof, as the case may be.

LXXVIII. All books, accounts, and documents of the Company, and of the Liquidators hereinafter mentioned, shall, as between the contributories of the Company, be *prima facie* evidence of the truth of all matters therein contained, and purporting to be therein recorded.

Books of Com-
pany to be evi-
dence.

LXXIX. The Court may, at any time after making an order or decree for winding-up a Company, and either before or after it has ascertained the sufficiency of the assets of the Company, or the debts in respect of which the several classes of contributories are liable, make calls on all or any of the contributories, to the extent of their liability, for payment of all or any sums it deems necessary to satisfy the debts and liabilities of the Company and the costs of winding it up, and it may, in making a call, take into consideration the probability that some contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same; and every such call shall be deemed a debt due to the Company.

Power of Court
to make calls.

LXXX. Upon such calls being made, the Official Liquidator or Liquidators shall proceed immediately to collect the same, and shall monthly or oftener report to the said Court the names of defaulters, together with the amounts remaining unpaid of the calls made upon them respectively, and thereupon the said Court shall order the payment of such calls or any of them within such time or times and upon such notice or demand by advertisements or otherwise as the said Court may think fit; and in case any contributory, whether subject to the ordinary Civil jurisdiction of the Court or not, shall neglect to pay any part of the call within the time fixed by the Court for the payment thereof, and shall not

Recovery
calls.

within such time show to the Court sufficient cause for the non-payment thereof, the said Court may make an order upon such contributory for the payment of the amount due upon the call, and such order shall have the force and effect of a decree or judgment of the Court and may be executed accordingly; and all the provisions of Acts XXXIII of 1852 and XXXIV of 1855 shall apply to the execution thereof.

Calls may be made upon former shareholders in respect of shares.

LXXXI. The Court may at any time make calls upon any former holder of a share who is liable under Section LXI or LXII of this Act in respect of such share as well as upon the existing holder of that share; but any payment made or obtained from any contributory in respect of a share shall operate for the benefit of every other contributory in respect of such share.

Payment of money into Court.

LXXXII. All monies received under the direction of the Court on account of the sale or conversion of any of the assets of the Company, or in respect of calls made on any contributories, or of any other matter, with the exception of such balance (if any) as the Official Liquidators may, with the sanction of the Court, retain in their hands for the payment of current expenses, shall be paid into Court or deposited in such manner as the Court may direct; and no money standing to such account shall be paid out except upon cheques signed in such manner as the Court directs.

Power of Court to grant injunction.

LXXXIII. The Court may, at any time after the presentation of a petition for winding-up a Company, and either before or after making an order for winding-up the same, upon the application of any creditor or contributory of such Company, restrain further proceedings in any action or suit against the Company, or appoint a receiver of the estate and effects of the Company; it may also, by notice or advertisement, require all creditors to present and prove their claims within a certain time, or be precluded from the benefit of any distribution which may be made before such claim is proved.

Power of Court to stay proceedings.

LXXXIV. The Court may, at any time after an order has been made for winding-up a Company, upon the appli-

cation of any creditor or contributory of the Company, and upon proof to the satisfaction of the Court that all proceedings in relation to such winding-up ought to be stayed, make an order staying the same, either altogether or for a limited time, on such terms and subject to such conditions as it deems fit.

LXXXV. As soon as the creditors are satisfied, the Court shall proceed to adjust the rights of the contributories amongst themselves, and to distribute any surplus that may remain amongst the parties entitled thereto; and for the purposes of such adjustment it may make calls on the contributories, to the extent of their liability for payment of such sums as it deems necessary; and it may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same. Nothing in this Section shall preclude any former shareholder entitled to indemnity under Section LXV of this Act from enforcing such indemnity by due course of law.

**Power of Court
to adjust rights of
contributories.**

LXXXVI. The Court may make such order as to the priority and payment out of the estate of the Company of the costs, charges, and expenses incurred in winding-up any Company as it thinks just.

**Power of Court
to order costs.**

Official Liquidators.

LXXXVII. For the purpose of conducting the proceedings in winding-up a Company, and assisting the Court therein, there shall be appointed a person or persons to be called an Official Liquidator or Official Liquidators; and such appointment shall be made as follows; (that is to say)—

**Appointment of
Official Liquidators.**

The Court having jurisdiction may, after requiring due security, appoint such person or persons, either provisionally or otherwise, as it thinks fit, to the office of Official Liquidators; it may from time to time remove any person or persons so appointed, and fill up any vacancy occasioned by such removal, or by the death or resignation of any such appointee or appoin-

tees : if one person only is appointed, he shall have all the powers hereby given to several Liquidators ; if more persons than one are appointed, the Court shall declare whether any act hereby required or authorized to be done by the Official Liquidators may be done by all or any one or more of such persons :

In cases where the winding-up takes place at the suit of a creditor, it shall be lawful for the major part in value of the creditors assembled at a meeting to be held for the purpose, and, in cases where the winding-up takes place at the suit of a contributory, for the major part in value of the contributories assembled at a meeting to be held for the purpose, to appoint an Official Liquidator to act concurrently with the Official Liquidator so named by the Court. Every such meeting shall be held at a time and place to be fixed by the Court, and of which meeting such notice shall be given as the Court may direct.

Style and duties of Official Liquidators.

LXXXVIII. The Official Liquidators or Liquidator shall be described by the style of the Official Liquidators or Official Liquidator of the particular Company in respect of which they or he are or is appointed, and not by their or his individual names or name ; they or he shall take into their or his custody all the property, effects, and things in action of the Company, and shall perform such duties in reference to the winding-up of the Company as may be imposed by the Court.

Powers of Official Liquidators.

LXXXIX. The Official Liquidators shall have power, with the sanction of the Court, to do the following things:—

To bring or defend any action, suit, or prosecution, or other legal proceeding, Civil or Criminal, in the name and on behalf of the Company ; and in such name to claim, prove, and draw dividends under any bankruptcy, insolvency, or sequestration:

To carry on the business of the Company, so far as may be necessary for the beneficial winding-up of the same :

To sell the property (moveable or immoveable), effects, and things in action of the Company by public auction or private contract, with power, if they think fit, to transfer the

whole thereof to any person or Company, or to sell the same in parcels :

To execute, in the name and on behalf of the Company, all deeds, receipts, and other documents they may think necessary ; and for that purpose to use, when necessary, the Company's seal.

To refer disputes to arbitration, and compromise any debts or claims :

To draw, accept, make, and endorse any Bill of Exchange or Promissory Note, and also to raise upon the security of the assets of the Company from time to time any requisite sum or sums of money ; and the drawing, accepting, making, or endorsing of every such Bill of Exchange or Promissory Note as aforesaid on behalf of the Company shall have the same effect with respect to the liability of such Company as if such Bill or Note had been drawn, accepted, made, or endorsed by such Company in the course of carrying on the business thereof :

To do and execute all such other things as may be necessary for winding-up the affairs of the Company and distributing its assets.

XCI. There shall be paid to the Official Liquidators such salary or remuneration, by way of percentage or otherwise, as the Court directs.

**Remuneration
of Official Liquidators.**

XCI. When the affairs of the Company have been completely wound-up, the Court shall make an order or decree declaring the Company to be dissolved from the date of such order or decree ; and the Company shall be dissolved accordingly.

**Dissolution of
Company.**

XCI. Any order or decree so made shall be reported by the Official Liquidators to the Registrar of Joint-Stock Companies, who shall make a Minute accordingly in his books of the dissolution of such Company.

**Registrar to
make minute of
dissolution of
Company.**

Voluntary Winding-up of Company.

XCI. A Company may be wound-up voluntarily, whenever the Company in General Meeting has passed a

**Circumstances
under which Com-
pany may be
wound-up volun-
tarily.**

special resolution to that effect. In such case the Company shall, from the date of the commencement of such winding-up, cease to carry on its business, except in so far as may be required for the beneficial winding-up thereof; but its corporate state and all its corporate powers shall, notwithstanding any provision to the contrary in its Articles of Association, continue until the affairs of the Company are wound-up.

Notice of resolution to wind-up voluntarily.

XCIV. Notice of any special resolution to wind-up a Company voluntarily shall be given, as respects Companies registered in any Presidency, in the Official *Gazette* of that Presidency, and also in some newspaper (if any) circulating in the place where the registered Office of the Company is situate; and, as respects a Company registered in any other part of the said territories, in some newspaper circulating in that part of the said territories, and also in some newspaper circulating in the part of the said territories in which the registered Office is situate.

Consequences of voluntary wind-up.

XCV. The following consequences shall ensue upon the voluntary winding-up of a Company:—

(1.) The property of the Company shall be applied in satisfaction of its liabilities, and, subject thereto, shall, unless it be otherwise provided by the Articles of Association, be distributed amongst the shareholders in proportion to their shares:

(2.) Liquidators shall be appointed for the purpose of winding-up the affairs of the Company and distributing the property:

(3.) The Company in General Meeting may appoint such person or persons as it thinks fit to be a Liquidator or Liquidators, and may fix the remuneration to be paid to them:

(4.) If one person only is appointed, all the provisions herein contained in reference to several Liquidators shall apply to him:

(5.) When several Liquidators are appointed, every power hereby given may be exercised by any two of them:

(6.) The Liquidators may, at any time after the passing of the resolution for winding-up the Company, and before they have ascertained the sufficiency of the assets of the Company, or the debts and liabilities in respect of which the contributories are liable, call on all or any of the contributories to the extent of their liability to pay all or any sums they deem necessary to satisfy the debts and liabilities of the Company and the costs of winding it up; and they may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(7.) The Liquidators shall have all powers hereinbefore vested in Official Liquidators, and may exercise the same without the intervention of the Court:

(8.) All books, papers, and documents in the hands of the Liquidators shall at all reasonable times be open to the inspection of the shareholders:

(9.) When the creditors are satisfied, the Liquidators shall proceed to adjust the rights of the contributories amongst themselves; and for the purposes of such adjustment they may make calls on all the contributories to the extent of their liability for any sum they may deem necessary; and they may, in making a call, take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions of the same:

(10.) As soon as the affairs of the Company are fully wound-up, the Liquidators shall make up an account showing the manner in which such winding-up has been conducted, and the property of the Company disposed of; and such account, with the vouchers thereof, shall be laid before such person or persons as may be appointed by the Company to inspect the same; and upon such inspection being concluded, the Liquidators shall proceed to call a General Meeting of the shareholders for the purpose of considering such account; but no such meeting shall be deemed to be duly held unless two months' previous notice, specifying the time, place, and object

of such meeting, has been published in the manner specified in Section XCIV of this Act :

(11.) Such General Meeting shall not enter upon any business except the consideration of the account ; but the meeting may proceed to the consideration thereof, notwithstanding the quorum required by any regulation of the Company to be present at General Meetings is not present thereat ; and if, on consideration, the meeting is of opinion that the affairs of the Company have been fairly wound-up, they shall pass a resolution to that effect, and thereupon the Liquidators shall publish a notice of such resolution in the manner specified in Section XCIV of this Act, and shall also make a return to the Registrar of Joint-Stock Companies of such resolution ; and on the expiration of one month from the date of the registration of such return, the Company shall be deemed to be dissolved :

(12) If, within one year after the passing of a resolution for winding-up the affairs of the Company, such affairs are not wound-up, the Liquidators shall immediately thereafter make up an account showing the state of the affairs and the progress which has been made in winding-up down to that date, and they shall add thereto a report stating the reason why the winding-up has not been completed ; and a General Meeting shall be called to consider the same, and so on from year to year until the winding-up of the affairs of the Company is completed.

All costs, charges, and expenses properly incurred in the voluntary winding-up of a Company, including the remuneration of the Liquidators, shall be payable out of the assets of the Company in priority to all other claims.

**Saving of rights
of creditors.**

XCVI. The voluntary winding-up of a Company shall not prejudice the right of any creditor of such Company to institute proceedings for the purpose of having the same wound-up by the Court.

PART IV

*Registration***Registration.**

XCVII The registration of Companies shall be conducted as follows ; (that is to say)—

(1.) The Local Government may, after the sanction of the Governor General in Council to the creation of any such Offices shall have been obtained, from time to time appoint such Registrars, Assistant Registrars, Clerks, and servants as it may think necessary for the registration of Companies under this Act, and remove them at pleasure :

(2.) The Local Government may make such regulations as it thinks fit with respect to the duties to be performed by any such Registrars, Assistant Registrars, Clerks, and servants as aforesaid :

(3.) The Local Government may from time to time determine the place or places at which Offices for the registration of Companies are to be established . Provided always, that there shall be at all times maintained in each of the three Presidency Towns of Calcutta, Madras, and Bombay at least one such Office, and that every Company whose registered Office is within any Presidency shall be registered in that Presidency :

(4.) Every person may inspect the documents kept by the Registrar of Joint-Stock Companies ; and there shall be paid for such inspection a fee of one Rupee for each inspection , and any person may require a copy or extract of any document, or any part of any document, to be certified by the Registrar on payment of two annas for every hundred words of such copy or extract* ; and such certified copy shall be *prima facie* evidence of the matters therein contained in all legal proceedings whatever .

(5.) There shall be paid to any Registrar, Assistant Registrar, Clerk, or servant that may hereafter be employed in the registration of Joint-Stock Companies, such salary as the Local Government may, with the sanction of the Governor General in Council, direct :

(6.) Whenever any act is herein directed to be done to or by the Registrar of Joint-Stock Companies, such act shall,

until a Registrar of Joint-Stock Companies shall have been appointed by the Local Government, be done to or by the keeper of the records of the Supreme Court of the Presidency in which the registered Office of the Company is situate, if such registered Office is situate within a Presidency ; otherwise by the keeper of the records of the Supreme Court of the Presidency of Bengal.

PART V.

REPEAL OF FORMER ACT AND TEMPORARY PROVISIONS.

Repeal.

Repeal of Act
XLIII. of 1850.

XCVIII. Act XLIII of 1850 is hereby repealed, except as to acts done or proceedings commenced or liabilities incurred before the passing of this Act. But such repeal shall not take effect with respect to any Company registered under the said Act, until such Company has obtained registration under this Act as hereinafter mentioned.

Temporary Provisions.

Registration of
existing Com-
panies.

*XCIX. Any Company registered under the said Act, and any other Company duly constituted by law previously to the passing of this Act, and consisting of seven or more shareholders, may at any time hereafter register itself as a Company under this Act, with or without limited liability, subject to this proviso, that no Company established for the purpose of Banking or Insurance shall be registered under this Act as a limited Company ; and that no Company shall be registered under this Act unless an assent to its being so registered has been given by three-fourths in number and value of such of its shareholders as may have been present, personally, or by proxy in cases where proxies are allowed by the regulations of the Company, at some General Meeting summoned for that purpose.

C. Previously to the registration under^e this Act of any existing Company, there shall be delivered to the Registrar of Joint-Stock Companies the following documents ; (that is to say)—

Requisitions for
registration by
existing Com-
panies.

(1.) In the case of a Company registered under the said Act, if such Company is not intended to be registered as a limited Company, a list showing the names, addresses, and occupations, of all persons who on the day of registration are holders of shares in the Company, with the addition of the shares held by such persons respectively, distinguishing each share by its number :

(2) If such Company is intended to be registered as a limited Company under the provisions of this Act, the above list shall be accompanied with a statement specifying the following particulars :—

The nominal Capital of the Company, and the number of shares into which it is divided ;

The number of shares taken, and the amount paid on each share ; and

The name of such Company, with the addition of the word “ Limited ” as the last word thereof :

(3) In the case of any other Company duly constituted by law previously to the passing of this Act, and consisting of seven or more shareholders, if it is not intended to be registered as a limited Company, there shall be delivered to the Registrar of Joint-Stock Companies such list of shareholders as is hereinbefore mentioned, and also a copy of any Law, Royal Charter, Letters Patent, Deed of Settlement, or other instrument constituting or regulating the Company .

(4) If any such Company as last aforesaid is intended to be registered as a limited Company, the above list and copy shall be accompanied by a statement specifying the following particulars ; (that is to say)—

The nominal Capital of the Company, and the number of shares into which it is divided ;

The number of shares taken, and the amount paid on each share ; and

The name of the Company, with the addition of the word "Limited" as the last word thereof.

Authentication
of statements of
existing Companies.

CI. The list of shareholders and any other particulars relating to the Company, hereby required to be delivered to the Registrar, shall be verified by declaration of the Directors of the Company delivering the same, or any two of them, or of any two other principal Officers of the Company.

Certificate of
registration of
existing Companies.

CII. Upon compliance with the foregoing requisitions, the Registrar of Joint-Stock Companies shall certify under his hand that the Company so applying for registration is incorporated as a Company under this Act, and, in the case of a limited Company, that it is limited; and thereupon such Company shall be incorporated accordingly; and all provisions contained in any Deed of Settlement, Law, Royal Charter, or Letters Patent, or other instrument constituting or regulating the Company, shall be deemed to be regulations of the Company within the meaning of this Act; and all the provisions of this Act shall apply to such Company in the same manner in all respects as if it had been originally incorporated under this Act, subject nevertheless to the reservations hereinafter contained with respect to the existing rights of creditors and other persons, and subject to this proviso, that, except in so far as is hereinafter permitted, no Company, constituted by any special law, shall have power to alter any of the provisions contained in such law; and no Company constituted by Royal Charter or Letters Patent shall have power, by a special resolution or otherwise, to alter any of the provisions contained in such Charter or Letters Patent.

Power of Com-
pany to change
its name.

CIII. Any existing Company may, for the purpose of obtaining registration with limited liability, change its name by adding thereto the word "Limited," or do any other act that may be necessary.

Certificate to
be evidence of
compliance with
Act.

CIV. The certificate of incorporation given to any existing Company, in pursuance of this Act, shall be conclusive evidence that all the requisitions herein contained in respect

of registration under this Act have been complied with ; and the date of such certificate shall be deemed to be the date on which the Company is incorporated under this Act.

CV. The registration of any existing Company under this Act shall not, nor shall any act of the Company subsequent to such registration, prejudice any right which previously to such registration has, or which would, if no such registration had taken place, have accrued to any creditor or other person against the Company in its corporate capacity in respect of any act done or liability incurred previously to such registration, or against any person then being or having been a member of such Company ; but every such creditor or other person shall be entitled, in respect of any such act or liability, to all such remedies against the Company in its corporate capacity, and against every person then being or having been a member of such Company, as he would have been entitled to in case such registration had not taken place.

Saving of rights
of creditors.

SCHEDULE.

FORM A.

*Memorandum of Association of "The Company,
Limited."*

1. The name of the Company is "The Company, Limited."
2. The registered Office of the Company is to be established in .
3. The objects for which the Company is established are "the ; and the doing all such other things as are incidental or conducive to the attainment of the above object."
4. The liability of the shareholders is "Limited."
5. The nominal Capital of the Company is Rupees divided into shares of Rupees each.

We, the several persons whose names and addresses are subscribed, are desirous of being formed into a Company in pursuance of this Memorandum of Association ; and we res-

<i>Names and Addresses of Subscribers.</i>							<i>Number of shares taken by each sub- scriber.</i>
1.	A. B.	...	...	...	...	...
2.	B. C.	...	...	...	...	...
3.	C. D.	...	...	...	...	...
4.	E. F.	...	...	...	...	...
5.	G. H.	...	...	...	...	...
6.	I. J.	...	...	...	...	...
7.	K. L.	...	...	...	...	...
Total shares taken...							...

Dated the day of
 Witness to the above Signatures
 A B

TABLE B
 REGULATIONS FOR MANAGEMENT OF THE
 COMPANY
 SHARES.

1 No person shall be deemed to have accepted any share in the Company, unless he has testified his acceptance thereof by writing under his hand in such form as the Company from time to time directs.

2. The Company may from time to time make such calls upon the shareholders, in respect of all monies unpaid on their shares, as they think fit, provided that twenty-one days' notice at least is given of each call; and each shareholder shall be liable to pay the amount of calls so made to the persons and at the times and places appointed by the Company.

3 A call shall be deemed to have been made at the time when the resolution authorizing such call was passed.

4. If, before or on the day appointed for payment, any shareholder does not pay the amount of any call to which

he is liable, then such shareholder shall be liable to pay interest for the same at the rate of 5 per cent. per annum from the day appointed for the payment thereof to the time of the actual payment.

5. The Company may, if they think fit, receive, from any of the shareholders willing to advance the same, all or any part of the monies due upon their respective shares beyond the sums actually called for ; and upon the monies so paid in advance, or so much thereof as from time to time exceeds the amount of the calls then made upon the shares in respect of which such advance has been made, the Company may pay interest at such rate as the shareholder paying such sum in advance and the Company agree upon.

6. If several persons are registered as joint holders of any share, any one of such persons may give effectual receipts of such share.

7. The Company may decline to register any transfer of shares made by a shareholder who is indebted to them.

8. Every shareholder shall, on payment of such sum not exceeding eight annas as the Company may prescribe, be entitled to a certificate, under the common seal of the Company specifying the share or shares held by him, and the amount paid up thereon.

9. If such certificate is worn out or lost, it may be renewed, on payment of such sum, not exceeding eight annas, as the Company may prescribe.

10. The transfer books shall be closed during the fourteen days immediately preceding the ordinary General Meeting in each year.

TRANSMISSION OF SHARES.

11. The executors or administrators or representatives of a deceased shareholder shall be the only persons recognized by the Company as having any title to his share.

12. Any person becoming entitled to a share in consequence of the death, bankruptcy, or insolvency of any shareholder, or in consequence of the marriage of any female shareholder, or in any way other than by transfer, may be

registered as a shareholder upon such evidence being produced as may from time to time be required by the Company.

13. Any person who has become entitled to a share in any way other than by transfer may, instead of being registered himself, elect to have some person to be named by him registered as a holder of such share.

14. The person so becoming entitled shall testify such election by executing to his nominee a transfer of such share.

15. The instrument of transfer shall be presented to the Company accompanied with such evidence as they may require to prove the title of the transferrer, and thereupon the Company shall register the transferee as a shareholder

FORFEITURE OF SHARES.

16. If any shareholder fails to pay any call due on the appointed day, the Company may, at any time thereafter, during such time as the call remains unpaid, serve a notice on him, requiring him to pay such call, together with any interest that may have accrued by reason of such non-payment.

17. The notice shall name a further date, and a place or places being a place or places at which calls of the Company are usually made payable, on and at which such call is to be paid: it shall also state that, in the event of non-payment at the time and place appointed, the shares in respect of which such call was made will be liable to be forfeited.

18. If the requisitions of any such notice as aforesaid are not complied with, any share in respect of which such notice has been given may be forfeited by a resolution of the Directors to that effect.

19. Any shares so forfeited shall be deemed to be the property of the Company, and may be disposed of in such manner as the Company thinks fit.

20. Any shareholder whose shares have been forfeited shall notwithstanding be liable to pay to the Company all calls owing upon such shares at the time of the forfeiture.

INCREASE IN CAPITAL.

21. The Company may, with the sanction of the Company previously given in General Meeting, increase its capital

22. Any capital raised by the creation of new shares shall be considered as part of the original capital ; and shall be subject to the same provisions in all respects, whether with reference to the payment of calls, or the forfeiture of shares on non-payment of calls, or otherwise, as if it had been part of the original capital.

GENERAL MEETINGS.

23. The first General Meeting shall be held at such time, not being more than twelve months after the incorporation of the Company, and at such place as the Directors may determine.

24. Subsequent General Meetings shall be held at such time and place as may be prescribed by the Company in General Meeting ; and if no other time or place is prescribed, a General Meeting shall be held on the first Monday in February in every year, at such place as may be determined by the Directors.

25. The above-mentioned General Meetings shall be called ordinary meetings ; all other General Meetings shall be called extraordinary.

26. The Directors may, whenever they think fit, and they shall, upon a requisition made in writing by any number of shareholders holding in the aggregate not less than one-fifth part of the shares of the Company, convene an Extraordinary General Meeting.

27. Any requisition so made by the shareholders shall express the object of the meeting proposed to be called, and shall be left at the registered Office of the Company.

28. Upon the receipt of such requisition, the Directors shall forthwith proceed to convene a General Meeting : if they do not proceed to convene the same within twenty-one days from the date of the requisition, the requisitionists, or any other shareholders holding the required number of shares, may themselves convene a meeting.

29. Seven days' notice at the least, specifying the place, the time, the hour of meeting, and the purpose for which any General Meeting is to be held, shall be given by

advertisement, or in such other manner (if any) as may be prescribed by the Company.

30. Any shareholder may, on giving not less than three days' previous notice, submit any resolution to a meeting beyond the matters contained in the notice given of such meeting.

31. The notice required of a shareholder shall be given by leaving a copy of the resolution at the registered Office of the Company.

32. No business shall be transacted at any meeting, except the declaration of a dividend, unless a quorum of shareholders is present at the commencement of such business: and such quorum shall be ascertained as follows; (that is to say) if the shareholders belonging to the Company at the time of the meeting do not exceed ten in number, the quorum shall be five; if they exceed ten, there shall be added to the above quorum one for every five additional shareholders up to fifty, and one for every ten additional shareholders after fifty, with this limitation, that it shall not be necessary for any quorum in any case to exceed forty.

33. If within one hour from the time appointed for the meeting the required number of shareholders is not present, the meeting, if convened upon the requisition of the shareholders, shall be dissolved: in any other case it shall stand adjourned to the following day at the same time and place; and if at such adjourned meeting the required number of shareholders is not present, it shall be adjourned *sine die*.

34. The Chairman (if any) of the Board of Directors shall preside as Chairman at every meeting of the Company.

35. If there is no such Chairman, or if at any meeting he is not present at the time of holding the same, the shareholders present shall choose some one of their number to be Chairman of such meeting.

36. The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and from place to place; but no business shall be transacted at any

adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

37. At any General Meeting, unless a poll is demanded by at least five shareholders, a declaration by the Chairman that a resolution has been carried, and an entry to that effect in the book of proceedings of the Company, shall be sufficient evidence of the fact, without proof of the number or proportion of the votes recorded in favor of or against such resolution.

38. If a poll is demanded in manner aforesaid, the same shall be taken in such manner as the Chairman directs, and the result of such poll shall be deemed to be the resolution of the Company in General Meeting

VOTES OF SHAREHOLDERS

39. Every shareholder shall have one vote for every share up to ten ; he shall have an additional vote for every five shares beyond the first ten shares up to one hundred, and an additional vote for every ten shares held by him beyond the first hundred shares.

40. If any shareholder is a lunatic or idiot, he may vote by his Committee ; and if any shareholder is a minor ; he may vote by his guardian, or any one of his guardians if more than one.

41. If more persons than one are jointly entitled to a share or shares, the person whose name stands first in the Register of shareholders as one of the holders of such share or shares, and no other, shall be entitled to vote in respect of the same.

42. No shareholder shall be entitled to vote at any meeting unless all calls due from him have been paid, nor until he shall have been possessed of his shares three calendar months, unless such shares shall have been acquired or shall have come by bequest, or by marriage or by succession to an intestate's estate, or by any deed of settlement after the death of any person who shall have been entitled for life to the dividends of such shares.

43. Votes may be given either personally or by proxies : a proxy shall be appointed in writing under the hand of the

appointer, or, if such appointer is a corporation, under their common seal.

44. No person shall be appointed a proxy who is not a shareholder, and the instrument appointing him shall be deposited at the registered Office of the Company not less than forty-eight hours before the time of holding the meeting at which he proposes to vote, but no instrument appointing a proxy shall be valid after the expiration of one month from the date of its execution.

DIRECTORS

45. The number of the Directors, and the names of the first Directors, shall be determined by the subscribers of the Memorandum of Association

46. Until Directors are appointed, the subscribers of the Memorandum of Association shall for all the purposes of this Act be deemed to be Directors

POWERS OF DIRECTORS

47. The business of the Company shall be managed by the Directors who may exercise all such powers of the Company as are not by this Act or by the Articles of Association (if any) declared to be exercisable by the Company in General Meeting, subject nevertheless to any regulations of the Articles of Association, to the provisions of this Act, and to such regulations, not being inconsistent with the aforesaid regulations or provisions, as may be prescribed by the Company in General Meeting; but no regulation made by the Company in General Meeting shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.

DISQUALIFICATION OF DIRECTORS.

48. The office of Director shall be vacated—

If he holds any other office or place of profit under the Company;

If he becomes bankrupt or insolvent;

If he is concerned in or participates in the profits of any contract with the Company,

If he participates in the profits of any work done for the Company ;

But the above rules shall be subject to the following exceptions :—that no Director shall vacate his office by reason of his being a shareholder in any incorporated Company which has entered into contracts with or done any work for the Company of which he is Director ; nevertheless he shall not vote in respect of such contract or work ; and if he does so vote, his vote shall not be counted, and he shall incur a penalty not exceeding Five Hundred Rupees.

ROTATION OF DIRECTORS.

49. At the first ordinary meeting after the incorporation of the Company, the whole of the Directors shall retire from office ; and at the first ordinary meeting in every subsequent year, one-third of the Directors for the time being, or, if their number is not a multiple of three, then the number nearest to one-third, shall retire from office.

50. The one-third or other nearest number to retire during the first and second years ensuing the incorporation of the Company shall, unless the Directors agree among themselves, be determined by ballot : in every subsequent year, the one-third or other nearest number who have been longest in office shall retire.

51. A retiring Director shall be re-eligible.

52. The Company at the General Meeting at which any Directors retire in manner aforesaid shall fill up the vacated offices by electing a like number of persons.

53. If at any meeting at which an election of Directors ought to take place no such election is made, the meeting shall stand adjourned till the next day, at the same time and place ; and if at such adjourned meeting no election takes place, the former Directors shall continue to act until new Directors are appointed at the first ordinary meeting of the following year.

54. The Company may from time to time, in General Meeting, increase or reduce the number of Directors, and may also determine in what rotation such increased or reduced number is to go out of office.

55. Any casual vacancy occurring in the Board of Directors may be filled up by the Directors ; but any person so chosen shall retain his office so long only as the vacating Director would have retained the same if no vacancy had occurred.

PROCEEDINGS OF DIRECTORS.

56. The Directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit, and determine the quorum necessary for the transaction of business : questions arising at any meeting shall be decided by a majority of votes ; in case of an equality of votes, the Chairman, in addition to his original vote, shall have a casting vote : a Director may at any time summon a meeting of the Directors.

57. The Directors may elect a Chairman of their meetings and determine the period for which he is to hold office ; but if no such Chairman is elected, or if at any meeting the Chairman is not present at the time appointed for holding the same, the Directors present shall choose some one of their number to be Chairman of such meeting.

58. The Directors may delegate any of their powers to Committees consisting of such member or members of their body as they think fit : any Committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed on them by the Directors.

59. A Committee may elect a Chairman of their meetings : if no such Chairman is elected, or if he is not present at the time appointed for holding the same, the members present shall choose one of their number to be Chairman of such meeting.

60. A Committee may meet and adjourn as they think proper : questions at any meeting shall be determined by a majority of votes of the members present ; and in case of an equal division of votes, the Chairman shall have a casting vote.

61. All acts done by any meeting of the Directors, or of a Committee of Directors, or by any person acting as a

Director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

62. The Directors shall cause Minutes to be made in books provided for the purpose.

(1.) Of all appointments of officers made by the Directors ;

(2.) Of the names of the Directors present at each meeting of Directors and Committees of Directors ;

(3.) Of all orders made by the Directors and Committees of Directors ; and

(4.) Of all resolutions and proceedings of meetings of the Company, and of the Directors and Committees of Directors.

And any such Minute as aforesaid, if signed by any person purporting to be the Chairman of any meeting of Directors, or Committee of Directors, shall be receivable in evidence without any further proof.

63. The Company, in General Meeting, may by a special resolution remove any Director before the expiration of his period of office, and appoint another qualified person in his stead ; the person so appointed shall hold office during such time only as the Director in whose place he is appointed would have held the same if he had not been removed.

DIVIDENDS.

64. The Directors may with the sanction of the Company in General Meeting, declare a dividend to be paid to the shareholders in proportion to their shares.

65. The Directors may before recommending any dividend, set aside out of the profits of the Company such sum as they think proper as a reserved fund to meet contingencies, or for equalizing dividends, or for repairing or maintaining the works connected with the business of the Company, or any part thereof ; and the Directors may invest the sum so

set apart as a reserved fund upon such securities as they, with the sanction of the Company, may select.

66. The Directors may deduct from the dividends payable to any shareholder all such sums of money as may be due from him to the Company on account of calls or otherwise.

67. Notice of any dividend that may have been declared shall be given to each shareholder, or sent by post or otherwise to his registered place of abode; and all dividends unclaimed for three years, after having been declared, may be forfeited by the Directors for the benefit of the Company.

68. No dividend shall bear interest as against the Company.

ACCOUNTS

69. Once at the least in every year the Directors shall lay before the Company in General Meeting a statement of the income and expenditure for the past year, made up to a date not more than three months before such meeting.

70. The statement so made shall show, arranged under the most convenient head, the amount of gross income, distinguishing the several sources from which it has been derived, and the amount of gross expenditure, distinguishing the expense of the establishment, salaries, and other like matters; every item of expenditure fairly chargeable against the year's income shall be brought into account, so that a just balance of profit and loss may be laid before the meeting; and in cases where any item of expenditure which may in fairness be distributed over several years has been incurred in any one year, the whole amount of such item shall be stated, with the addition of the reasons why only a portion of such expenditure is charged against the income of the year.

71. A balance-sheet shall be made out in every year, and laid before the General Meeting of the Company; and such balance sheet shall contain a summary of the property and liabilities of the Company, arranged under the heads appearing in the Form annexed to this Table, or as near thereto as circumstances admit.

72. A printed copy of such balance-sheet shall, seven days previously to such meeting, be delivered at or sent by post to the registered address of every shareholder.

AUDIT.

73. The accounts of the Company shall be examined, and the correctness of the balance-sheet ascertained, by one or more Auditor or Auditors to be elected by the Company in General Meeting.

74. If not more than one Auditor is appointed, all the provisions herein contained relating to Auditors shall apply to him.

75. The Auditors need not be shareholders in the Company: no person is eligible as an Auditor, who is interested otherwise than as a shareholder in any transaction of the Company, and no Director or other officer of the Company is eligible during his continuance in office.

76. The election of Auditor shall be made by the Company at their ordinary meeting, or, if there are more than one, at their first ordinary meeting in each year.

77. The remuneration of the Auditors shall be fixed by the Company, at the time of their election.

78. Any Auditor shall be re-eligible on his quitting office.

79. If any casual vacancy occurs in the office of Auditor, the Directors shall forthwith call an Extraordinary General Meeting for the purpose of supplying the same.

80. If no election of Auditors is made in manner aforesaid, the local Government may, on the application of one-fifth in number of the shareholders of the Company, appoint an Auditor for the current year, and fix the remuneration to be paid to him by the Company for his services.

81. Every Auditor shall be supplied with a copy of the balance-sheet, and it shall be his duty to examine the same with the accounts and vouchers relating thereto.

82. Every Auditor shall have a list delivered to him of all books kept by the Company, and he shall at all reasonable times have access to the books and accounts of the

Company ; he may, at the expense of the Company, employ accountants or other persons to assist him in investigating such accounts, and he may in relation to such accounts examine the Directors or any other officer of the Company.

83. The Auditors shall make a report to the shareholders upon the balance-sheet and accounts ; and in every such report they shall state whether, in their opinion, the balance-sheet is a full and fair balance-sheet, containing the particulars required by these regulations, and properly drawn up so as to exhibit a true and correct view of the state of the Company's affairs ; and in case they have called for explanations or information from the Directors, whether such explanations or information have been given by the Directors, and whether they have been satisfactory ; and such report shall be read, together with the report of the Directors, at the ordinary meeting.

NOTICES.

84. Notices requiring to be served by the Company upon the shareholders may be served either personally, or by leaving the same, or sending them through the post in a letter addressed to the shareholders, at their registered places of abode

85. All notices directed to be given to the shareholders shall, with respect to any share to which such persons are jointly entitled, be given to whichever of the said persons is named first in the Register of shareholders ; and notice so given shall be sufficient notice to all the proprietors of such share.

FORM C.

Memorandum of Association of " The Company, Limited, " with Articles of Association annexed.

MEMORANDUM OF ASSOCIATION.

1. The name of the Company is " The Company, Limited."
2. The registered Office of the Company is to be established in
3. The objects for which the Company is established are
4. The liability of the shareholders is "Limited."
5. The Capital of the Company is Rupees divided into shares of Rupees each.

We, the several persons whose names are subscribed, are desirous of being formed into a Company, in pursuance of this Memorandum of Association; and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

Names and addresses of Subscribers.						Number of shares taken by Subscribers.
1.	A. B.	...	...	...	...
2.	B. C.	..	...	..	...
3.	C. D.	..	..	...	...
4.	E. F.	..	...	..	...
5.	G. H.	...	...	...	...
6.	I. J.	..	...	.	...
7.	K. L.	...	...	...	...
Total shares taken.....						

Witness to the above Signatures.

A. B.

Articles of Association of the

Company Limited.

It is agreed as follows :—

1. No shareholders shall transfer his share without the consent of the Directors expressed in writing.
2. If any shareholder feels aggrieved with the refusal of the Directors to allow him to transfer his shares, the matter shall be settled by arbitration.

For every 10 000 Rupees or part of 10,000 Rupees, after the first 10 00,000 Rupees, an additional fee of	0	8	0
For Registration of any increase in the Capital of a Company, for every 10 000 Rupees, or part of 10,000 Rupees, up to 10 00,000 Rupees in the whole	2	8	0
For every 10 000 Rupees, or part of 10,000 Rupees, beyond the first 10,00,000 Rupees, an additional fee of	0	8	0
For registering any document hereby required or authorized to be registered other than the Memorandum of Association, a fee of	2	8	0
For making a record of any fact hereby authorized or required to be recorded by the Registrar of Companies, a fee of	2	8	0

FORM F

FORM OF TRANSFER OF SHARES.

I _____ of _____ (in consideration of the sum
of _____ paid to me by _____ of _____)*
do hereby transfer to the said _____ share
[or shares] numbered _____ in "The
Company" standing in my name in the books of the Company, to
hold unto the said _____ his executors, administrators, representatives,
or assigns [or successors and assigns] subject to the several conditions
on which I held the same at the time of the execution hereof, and
I the said _____ do hereby agree to take the said share
[or shares] subject to the same conditions. As witness our hands, the
day of _____.

GENERAL

ACT No XX of 1857

- 1 Government empowered to regulate the rate of dist-money prescribed in Section LXII, Act IX of 1850
- 2 Court may raise the rate, in case of illness or for other special cause
- 3 Construction

An Act to amend Act IX of 1850

• WHEREAS it is expedient that authority should be given to vary the rate of diet-money to be deposited for the subsistence of persons imprisoned under Act IX of 1850, It is enacted as follows —

Government empowered to regulate the rate of diet money prescribed in Section LXII, Act IX of 1850

I Whenever, with reference to the price of provisions in any Presidency, the Governor in Council shall be of opinion that the rate of diet-money prescribed in Section LXII of Act IX of 1850 is insufficient for the subsistence of persons imprisoned under that Act, it shall be lawful for the Governor in Council from time to time to fix such other rate, not exceeding three annas for each day, as may to him seem sufficient

Court may vary the rate, in case of illness or for other special cause

II It shall be lawful for a Judge of a Court of Small Causes holden under the said Act, in case of illness or for other special cause, to order that the diet-money to be deposited for the subsistence of a prisoner taken in execution under a warrant of the Court shall be deposited after such rate, not exceeding six annas for each day, as may to him

seem necessary. Every such order may from time to time be revised and altered on due cause being shown.

III. This Act shall be read with and taken as a part of Act IX of 1850.

Construction.

Act No XXI of 1857

SUBURBS OF
CALCUTTA.

1. Cases under this Act by whom to be tried.
2. Possession of stolen property by one who fails to account satisfactorily for the possession.
3. Apprehension and punishment of reputed thieves, &c.
4. Penalty for carrying arms without authority.
5. Magistrate may make order for maintenance of river channels.
6. Penalty for harbouring and concealing deserters from merchant vessels.
7. Brothels.
8. Licenses for retail sale of spirituous or fermented liquors to be granted with concurrence of Magistrate.
9. Revocation of license.
10. Penalty for owning or keeping, or having charge of, a gaming house, &c.
11. Penalty for being found playing in a gaming-house.
12. Magistrate may authorize certain Police Officers to enter a gaming house for the purpose of search and seizure.
13. On conviction for keeping a gaming house, instruments of gaming to be destroyed, &c.
14. Portion of fine may be paid to Informer.
15. Gambling in the streets.
16. Pawn brokers and money changers to report thefts properly under a penalty for neglect.
17. If stolen articles be altered or left unaltered for information of the theft, he shall be deemed a receiver of stolen goods.
18. Manufacture or possession of Gunpowder.
19. Licenses by Magistrate for sale and use of Gunpowder, &c.
20. Penalty for drunkenness, or riotous or indecent behaviour in public.
21. Penalty for committing a nuisance in streets.
22. Beggars.
23. Penalty for specified offences in public streets, &c.
24. Beating drums, tom-toms, &c.
25. Depositing dirt on street, &c.
26. Allowing sewerage to flow on streets.
27. Future obstructions in streets or roads. Power to remove.

28. *Taking up pavements.*
29. *Future projections from houses to be removed.*
30. *Removal of existing projections from houses. Notice of removal. Compensation when to be made.*
31. *Houses projecting beyond line of street when taken down to be set back.*
32. *Power to trim hedges and trees bordering roads.*
33. *Houses in a ruinous and dangerous state.*
34. *Sale of materials of ruinous houses.*
35. *Penalty on occupier of a house not removing filth.*
36. *Filthy houses, &c.*
37. *Penalty for keeping sheep-pen, &c., in a filthy state.*
38. *Licensing of public necessities.*
39. *Penalty for keeping private drain, &c., in improper state.*
40. *Fouling water by—Bathing.—Washing.—Throwing rubbish, &c. Allowing drain water to flow into a public tank.*
41. *Power to fill up unwholesome tanks on private premises.*
42. *Power to drain off and cleanse stagnant pools in open places.*
43. *Penalty for not lighting deposits of building materials or excavations.*
44. *Places dangerous to passengers to be repaired or enclosed.*
45. *Penalty for establishing a slaughter-house without license, after passing of Act*
46. *Penalty for keeping slaughter-house in improper state.*
47. *Penalty for establishing offensive and dangerous trades within certain limits.*
48. *No burial or burning place henceforth to be constructed without leave of Magistrate*
49. *Magistrate may order certain burial or burning places to be closed. Penalty for burying or burning in such places.*
50. *Stray dogs.*
51. *Police Officer may arrest without warrant on view of offence.*
52. *Police Officer may take into custody, without warrant, persons charged with aggravated assault recently committed.*
53. *Persons taken into custody by a Police Officer without warrant may be detained in Police Office, until brought before a Magistrate, or bailed.*
54. *Procedure on information or complaint laid before the Magistrate of an offence against this Act.*
55. *Recovery of costs or expenses.*
56. *Jurisdiction.*
57. *Application of fines.*
58. *Act to supersede the provisions of Act XXI of 1841.*
59. *Interpretation.*

An Act to make better provision for the order and good government of the Suburbs of Calcutta and of the Station of Howrah.

WHEREAS Acts have been passed for regulating the Police and for the conservancy and improvement of the Town of Calcutta and of the other Presidency Towns; and whereas large portions of the Suburbs of the said Town of Calcutta and of the Station of Howrah are not less populous than parts of the said Town, and it will conduce to the order and good government of the said Suburbs and Station that some of the provisions of the said Acts, within certain necessary modifications, should be extended to the said Suburbs and Station: It is enacted as follows:—

I. Whoever is charged with having committed any of the offences mentioned in this Act within the limits of the said Suburbs or Station, as described in the Schedule hereunto annexed, may be tried for any such offence by the Magistrate within whose jurisdiction the offence is alleged to have been committed, and on conviction, may be sentenced by such Magistrate to the punishment hereinafter prescribed for the offence.

Cases under
this Act by whom
to be tried.

II. *Clause 1.*—Whoever has in his possession, or conveys in any manner, any thing which may be reasonably suspected of being stolen or fraudulently obtained, shall, if he fail to account satisfactorily how he came by the same, be liable to a penalty not exceeding one hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Possession of
stolen property
by one who fails
to account satis-
factorily for the
possession.

Clause 2.—If any person, charged with having or conveying any thing stolen or fraudulently obtained, shall declare that he received the same from some other person, or that he was employed as a carrier, agent, or servant, to convey the same for some other person, the Magistrate may cause every such other person, and also, if necessary, every former or pretended purchaser or other person through whose possession the same shall have passed (provided that such other person shall be alleged to have had possession of the same within the jurisdiction of such Magistrate) to be brought before him and

examined, and shall examine witnesses touching the same ; and if it appear to such Magistrate that any person so brought before him had possession of such thing, and had reasonable cause to believe the same to have been stolen or unlawfully obtained, such person shall be liable to a penalty not exceeding one hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Apprehension and punishment of reputed thieves, &c.

III Any person found, between sun-set and sun-rise, armed with any dangerous or offensive instrument whatsoever, with intent to commit any offence against the person or property of another ; any reputed thief found, between sun-set and sun-rise, on board any vessel or boat, or lying or loitering in any bazar, street, road, yard, thoroughfare, or other place, who shall not give a satisfactory account of himself ; any person found, between sun-set and sun rise, having his face covered or otherwise disguised, with intent to commit any such offence as aforesaid ; any person found, between sun-set and sun-rise, in any dwelling-house or other building whatsoever, without being able satisfactorily to account for his presence therein ; and any person having in his possession, without lawful excuse, (the proof of which excuse shall be on such person), any implement of house-breaking, shall be liable to imprisonment with or without hard labor, for a term not exceeding three months, and any such person may be taken into custody by any Police Officer without a warrant

Penalty for carrying arms without authority.

IV. Whoever, not being a soldier or sailor in the Army or Navy of the Queen or the East India Company, or a Police Officer, goes armed with any sword, spear, gun, or other offensive weapon in any street, thoroughfare, or public place, unless by leave of the Magistrate, shall be liable to be disarmed by any Police Officer ; and the weapon so seized shall be forfeited to the Government, unless redeemed by payment of a fine, at the discretion of the Magistrate, not exceeding ten Rupees.

Magistrate may make order for maintenance of wives or children.

V. If any person, having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate

child unable to maintain himself, it shall be lawful for the Magistrate, upon due proof thereof, to order such person to make a monthly allowance for the maintenance of his wife or such child as aforesaid, at such rate, not exceeding fifty Rupees in the whole, as to the Magistrate shall seem reasonable; and if such person shall wilfully neglect to comply with the said order, the Magistrate may, by warrant, direct the amount due to be levied in the manner in which fines may be levied, or may order him to be imprisoned, with or without hard labor, for any term not exceeding one month. Provided always, that any such person shall be at liberty to apply to the Magistrate, from time to time, for a reduction of such monthly allowance, on proof of an alteration in the circumstances of himself, his wife, or child, justifying such reduction.

VI. Whoever wilfully harbours or conceals any seaman or apprentice belonging to a merchant vessel, knowing, or having reason to believe, such seaman or apprentice to be a deserter, shall be liable to a fine not exceeding One Hundred Rupees.

Penalty for harbouring deserters from merchant vessels.

VII. On the complaint of three or more householders, that a house in their immediate neighbourhood is used as a common brothel or lodging-house for prostitutes or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, the Magistrate may summon the owner or tenant of the house to answer the complaint; and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the neighbours, may order the owner or tenant to discontinue such use of it; and if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of Twenty-five Rupees for every day thereafter that the house shall be so used.

Brothels.

VIII. Except as hereinafter provided, no license shall be granted by the Collector for the sale by retail of any spirituous or fermented liquors in any Hotel, Tavern, Punch-

Licenses for retail sale of spirituous or fermented liquors to be granted with con-

concurrence of Magistrate.

house, Ale-house, Arrack or Toddy Shop, or other place of public resort and entertainment, without the concurrence of the Magistrate. If a difference should arise between the Collector and the Magistrate respecting the grant of any such license, the case shall be reported to the Commissioner of Revenue and Circuit; and the decision of the Commissioner, subject to the orders and control of the Lieutenant-Governor of Bengal shall be final.

Revocation of license

IX. Whenever any person, being the keeper of any such house or place of public resort and entertainment as aforesaid, is convicted of any of the offences specified in Section XLV, Act XXI of 1856, the Magistrate may, if he think proper, apply to the Collector to revoke the license granted by him to such person; and upon such application the Collector shall forthwith revoke such license.

Penalty for owning or keeping, or having charge of, a gaming-house, &c.

X. Whoever, being the owner or occupier, or having the use of any house, room, or place, keeps or uses the same as a common gaming-house, and whoever, being the owner or occupier of any house or room, knowingly and wilfully permits the same to be kept or used by any other person as a common gaming-house, and whoever has the care or management of, or in any manner assists in conducting, the business of any house, room, or place so kept or used; and whoever advances or furnishes money for the purpose of gaming with persons frequenting such house, room, or place—shall be liable to a fine not exceeding Two Hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding three months.

Penalty for being found playing in a gaming-house.

XI. Whoever is found in any such house, room, or place, playing or gaming with cards, dice, counters, money, or other instruments of gaming, or is found there present for the purpose of gaming, whether playing for any money, wager, stake, or otherwise, shall be liable to a fine not exceeding One Hundred Rupees, or to imprisonment, with or without hard labor, for any term not exceeding one month; and any person found in any common gaming-house during any gaming or playing therein, shall be presumed, until if the

contrary be proved, to have been there for the purpose of gaming.

XII. If the Magistrate, upon information on oath, and after such enquiry as he may think necessary, has reason to believe that any house, room, or place is used as a common gaming-house, he may by his warrant give authority to any superior Officer of Police to enter, with such assistance as may be found necessary, by night or by day, and by force if necessary, any such house, room, or other place; and to take into custody all persons whom he finds therein, whether or not then actually gaming; and to seize all instruments of gaming, and all monies, and securities for money, and articles of value, reasonably suspected to have been used or intended to be used for the purpose of gaming, which are found therein; and to search all parts of the house, room, or place which he shall have so entered, when he has reason to believe that any instruments of gaming are concealed therein, and also the persons of those whom he so takes into custody; and to seize and take possession of all instruments of gaming found upon such search.

Magistrate may authorize certain Police Officers to enter a gaming-house for the purpose of search and seizure.

XIII. On conviction of any person for keeping any such common gaming-house, or being present therein for the purpose of gaming, all the instruments of gaming found therein shall be destroyed by order of the Magistrate, who may also order all or any of the securities for money, and other articles seized not being instruments of gaming, to be sold and converted into money, and the proceeds thereof, with all monies seized therein, to be forfeited; or, in his discretion, may order any part thereof to be returned to the persons appearing to have been severally thereunto entitled.

On conviction for keeping a gaming-house, instruments of gaming to be destroyed, &c.

XIV. The Magistrate may direct any portion, not exceeding one-fourth, of any fine which shall be levied under Sections X and XI of this Act, or any part of the monies, or proceeds of articles seized and ordered to be forfeited under Section XIII, to be paid to an informer.

Portion of fine may be paid to informer.

Gambling in the streets.

XV. A Police Officer may apprehend without warrant any person found gaming with cards, dice, counters, money, or other instruments of gaming, in any public street, place, or thoroughfare; and such person shall be liable to a fine not exceeding Twenty Rupees, or to imprisonment, with or without hard labor, for any term not exceeding one month; and such instruments of gaming and money shall be forfeited

Pawn-brokers and money-changers to report stolen property under a penalty for neglect

XVI If any property regarding which written or printed information shall be given by any Police Officer to any pawn-broker, or dealer in second-hand property, or money-changer, as having been stolen, embezzled, or fraudulently obtained, shall then be or thereafter come into the possession of or be offered in pawn or for sale or change to such pawn-broker, dealer, or money-changer, he shall without unnecessary delay give information at the nearest Police Office, that certain property, answering the description of the said property, was offered to him, or is in his possession, and shall also state the name and address given by the party by whom the same was offered, or from whom the same was received, under a penalty not exceeding Fifty Rupees for each and every such neglect or offence; Provided always that, in the case of wearing apparel or other articles, which it may be difficult for such pawn-broker or dealer to trace out and identify, no fine shall be exigible in respect of not reporting such articles, unless it shall appear to the Magistrate that such articles had been knowingly concealed by such pawn-broker or dealer.

If stolen articles be altered or defaced by broker, after information of the theft, he shall be deemed a receiver of stolen goods.

XVII. If any pawn-broker or dealer in second-hand goods, or worker in gold or silver, after receiving information of the theft, or the embezzling, or the fraudulent disposal of any metals, goods, or articles of whatsoever description, melts, alters, defaces, or puts away the same, or causes the same to be melted, altered, defaced, or put away, without having previously received the permission of the Magistrate, and it shall be found that such metals, goods, or articles were stolen, embezzled, or fraudulently disposed of by the person

from whom such pawn-broker, dealer, or worker received the same, or by any other person, then and in such case it shall be held that such pawn-broker, dealer, or worker knew that such metals, goods, or articles were stolen, embezzled, or fraudulently disposed of; and such pawn-broker, dealer, or worker shall be proceeded against according to law as a receiver of stolen goods, or as being a party to the fraud, and punished accordingly; and no other evidence of his guilt shall be necessary than evidence of such melting, altering, defacing, or putting away, after receiving information as aforesaid.

XVIII. Whoever manufactures Gunpowder, or without a license from the Magistrate has in his possession, in any house, shop, ware-house, or other building, at any one time, a greater quantity of Gunpowder than ten pounds, shall be liable to a fine not exceeding Two Hundred Rupees, and also to forfeit such Gunpowder so manufactured or possessed, together with the vessel or receptacle in which it may be contained.

**Manufacture
or possession of
Gunpowder.**

XIX. The Magistrate may grant to any person a license for the sale or keeping in deposit of any quantity of Gunpowder not exceeding fifty pounds, on such conditions, and for such term not exceeding one year, as shall be specified in the license; and any person who shall be guilty of a breach of any of such conditions, shall be liable to a fine not exceeding One Hundred Rupees, and to forfeit all Gunpowder so kept in deposit contrary thereto, and the vessels containing it, and also to forfeit his license.

**Licenses by
Magistrate for
sale and deposit
of Gunpowder,
&c.**

XX. Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous or indecent behaviour, in any street or thoroughfare, or in any place of public amusement or resort, and whoever is guilty of violent behaviour in any Police Office, shall be liable to a fine not exceeding twenty Rupees, or to imprisonment, with or without hard labor, for a term not exceeding fourteen days.

**Penalty for
drunkenness, or
riotous or in-
decent behavi-
our in public.**

XXI. Whoever wilfully and indecently exposes his person, or commits a nuisance by easing himself in or by the

**Penalty for
committing a
nuisance
in
streets.**

side of or near to any public street or thoroughfare or place, shall be liable to a fine not exceeding Ten Rupees, or, in default of payment thereof, to imprisonment, with or without hard labor, for a term not exceeding fourteen days.

Beggars

XXII. Whoever in any public road, street, thoroughfare, or place, begs or applies for alms, or exposes or exhibits any sores, wounds, bodily ailment, or deformity, with the object of exciting charity or of obtaining alms; or whoever seeks for or obtains alms, by means of any false statement or pretences—shall be liable to imprisonment, with or without hard labor, for any term not exceeding one month.

Penalty for the following offences in public streets, &c.

XXIII. Whoever, in any public street, road, thoroughfare, or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding Twenty Rupees:—

1. Whoever drives or rides any animal, or drives any vehicle, in a manner so rash or negligent as to indicate a want of due regard for the safety of others.

2. Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry, or put in fear any person, horse or other animal.

3. Whoever being in charge of a cart, carriage, or horse, leaves it at such a distance as not to have the same under due control.

4. Whoever fastens any animal so as to cause obstruction or danger to passengers.

5. Whoever cruelly beats, abuses, or tortures any animal.

6. Whoever sets fire to or burns any straw or other matter, or lights any bon-fire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon.

Beating drums, tom-toms, &c.

XXIV. Within such parts of the said Suburbs or Station as shall be from time to time defined by the Magistrate with the sanction of the Lieutenant Governor of Bengal, whoever beats a drum or tom-tom, or blows a horn or trumpet, or

beats or sounds any metal instrument or utensil, between the hours of ten at night and four in the morning, in any public street, road, or thoroughfare, so as to disturb the repose of the inhabitants, except when permitted by the Magistrate on occasions of festivals and ceremonies, shall be liable to a fine not exceeding Twenty Rupees.

XXV. Whoever deposits, or permits his servants to deposit, any dust, dirt, dung, ashes, garden, kitchen or stable refuse, or filth of any kind, or any animal matter, or any broken glass or earthen-ware, or other rubbish, in any street, or on any public quay, jetty, ghaut or landing place, except in such places and in such manner and at such hours as shall be fixed by the Magistrate, or throws or puts, or permits his servants to throw or put, any such substances into any public sewer or drain, or into any drain communicating therewith—shall be liable to a fine not exceeding Ten Rupees

Depositing dirt
on street, &c.

XXVI. Whoever causes or allows the water of any sink or sewer, or any other offensive liquid matter, belonging to him or being on his land, to run, drain, or be thrown or put upon any street; or causes or allows any offensive matter from any sewer or privy to run, drain, or be thrown into a surface drain in any street—shall be liable to a fine not exceeding Ten Rupees.

Allowing se-
werage to flow
on streets.

XXVII. Whoever builds any wall, or erects or sets up any fence, rail, post, or other obstruction or encroachment, in any public street or road, or in or over any open drain, sewer, or aqueduct along the side of any such street or road after the passing of this Act, shall be liable to a fine not exceeding One Hundred Rupees; and the Magistrate shall have power to remove any such obstruction or encroachment, and the expense of such removal shall be paid by the person erecting the same and shall be recoverable as hereinafter provided.

Future ob-
structions in
streets or roads
Power to re-
move.

XXVIII. Whoever displaces, takes up, or makes any alteration in the pavement or other materials, or in the fences or posts of any public street, without the consent in

Taking
pavements.

writing of the Magistrate, or without other lawful authority, shall be liable to a fine not exceeding Fifty Rupees.

Future projections from houses to be removed.

XXIX. The Magistrate may give notice in writing to the owner or occupier of any house or building to remove or alter any projection, encroachment, or obstruction, which, after the passing of this Act, shall be erected or placed against or in front of such house or building, if the same overhangs or juts into, or in any way projects or encroaches upon, or is an obstruction to the safe and convenient passage along any public street, or obstructs or projects, or encroaches into or upon any uncovered aqueduct, drain, or sewer in such street; and such owner or occupier shall, within fourteen days after the service of such notice upon him, remove such projection, encroachment, or obstruction, or alter the same in such manner as shall have been directed by the Magistrate; and in default thereof, shall be liable to a fine not exceeding Two Hundred Rupees; and the Magistrate in such case may remove such projection, encroachment, or obstruction; and the expense of such removal shall be paid by the owner or occupier so making default, and shall be recoverable as hereinafter provided.

Removal of existing projections from houses. Notice of removal. Compensation when to be made.

XXX. The Magistrate may cause any such projection, encroachment, or obstruction erected or placed against or in front of any house or building, in any public street before the passing of this Act, to be removed or altered as he shall think fit; Provided, that he give notice of such intended removal or alteration to the occupier of the house or building against or in front of which such projection, encroachment, or obstruction shall be, thirty days before such alteration or removal is begun; and if such projection, encroachment, or obstruction shall have been lawfully made, he shall make reasonable compensation to every person who suffers damage by such removal or alteration.

Houses projecting beyond line of street when taken down to be set back.

XXXI. When any house or building, any part of which projects beyond the regular line of a public street, or beyond the front of the house or building on either side thereof, has been taken down in order to be re-built or altered, the

Magistrate may require the same to be set back to or towards the line of the street or the line of the adjoining houses or buildings, and shall make reasonable compensation to the owner of any such house or building for any damage he may thereby sustain. If any dispute shall arise touching the amount of compensation to be allowed under this or the preceding Section, the same shall be settled in the manner provided by the laws in force for the settlement of disputes respecting compensation for lands taken for public purposes.

XXXII. The Magistrate may give notice to the owner or occupier of any land to cut and trim any hedges and trees overhanging any public road or street, so as to obstruct the passage or to cause damage thereto ; and in the event of such notice not being complied with within eight days from the date thereof, the Magistrate may cause the said hedges and trees to be cut and trimmed in the manner required ; and the expense incurred by the Magistrate in respect thereof shall be paid by the owners, and shall be recoverable as hereinafter provided.

**Power to trim
hedges and trees
bordering roads.**

XXXIII. If, in any street, any house, building, or wall or any thing affixed thereon, be deemed by the Magistrate to be in a ruinous state or likely to fall, or in any way dangerous to the inhabitants of such house or building, or to the neighbouring houses or buildings, or the occupants thereof, or to passengers, he may cause notice in writing to be given to the owner, if he be known and resident within the limits of his jurisdiction, and may also cause such notice to be put on the door or other conspicuous part of the said premises, or otherwise to be given to the occupier thereof (if any), requiring such owner or occupier forthwith to take down, secure, or repair such house, building, wall, or thing affixed thereon, as the case shall require ; and if such owner or occupier do not begin to repair, take down, or secure the same within three days after such notice, and complete such work with due diligence, the Magistrate may cause all or so much of such house, building, wall, or thing, as he shall think necessary, to be taken down, repaired, or otherwise secured ; and all the

**Houses in a
ruinous and dan-
gerous state.**

expenses shall be paid by the owner of the premises, and shall be recoverable from him as hereinafter provided.

Sale of materials of ruinous houses

XXXIV. If any such house, building, or wall, or any part of the same, be pulled down by virtue of the powers aforesaid, the Magistrate may sell the materials thereof, or of so much of the same as shall be taken down, and apply the proceeds of such sale in payment of the expenses incurred, and shall restore any overplus arising from such sale to the owner of such house, building, or wall on demand. The Magistrate, although he sells such materials for the purposes aforesaid, shall have the same remedies for compelling the payment of so much of the said expenses as may remain due after the application of the proceeds of such sale, as by this Act are given to him for compelling the payment of the whole of the said expenses.

Penalty on occupier of a house not removing filth.

XXXV. Whoever, being the occupier of a house in or near any street, keeps or allows to be kept for more than twenty-four hours, or otherwise than in some proper receptacle, any dirt, dung, bones, ashes, night-soil, filth, or any noxious or offensive matter, in or upon the roof of such house, or in any out-house, yard, or ground attached to and occupied with such house, or suffers such receptacle to be in a filthy or noxious state, or neglects to employ proper means to remove the filth therefrom, and to cleanse and purify the same, shall be liable to a fine not exceeding Fifty Rupees.

Filthy houses, &c

XXXVI. Whoever, being the owner or occupier of any house, building, or land, in or near any street, whether tenantable or otherwise, suffers the same to be in a filthy and unwholesome state, or overgrown with rank and noisome vegetation, shall be liable to a fine not exceeding Fifty Rupees, and to a fine not exceeding Five Rupees for every day after conviction for such offence during which the offence is continued.

Penalty for keeping sheep-pen, &c, in a filthy state.

XXXVII. Whoever, being the owner or keeper of any Cattle, Sheep, or Pigs, suffers the stall, pen, or place in which they are kept, in or near any street, to be in a filthy or

noxious state, or neglects to employ proper means to remove the filth therefrom, shall be liable to a fine not exceeding Twenty Rupees.

XXXVIII. The Magistrate may license such necessaries for public accommodation as he, from time to time, may think proper; and whoever keeps any public necessary without such license, or, having a license for a public necessary, suffers the same to be in a filthy or noxious state, or neglects to employ proper means for cleansing the same, shall be liable to a fine not exceeding Fifty Rupees; and the license may be cancelled.

Licensing of
public neces-
saries

XXXIX. Whoever, being the owner of any private drain, privy, or cesspool, neglects or refuses, after warning from the Magistrate, to keep the same in a proper state, shall be liable to a fine not exceeding Fifty Rupees.

Penalty for
keeping private
drain &c., in
improper state.

XL. Whoever bathes in any public tank, the water of which shall have been declared by the Magistrate to be appropriated to the domestic use of the inhabitants; or washes, or causes to be washed therein, any horse, dog, or any other animal, or any wool, cloth, or wearing apparel, or any utensils for cooking or other purposes, or leather, or the skin of any animals, or other foul or offensive thing; or throws, puts, or casts, or causes to enter therein, any animal, or any gravel, stone, dust, or rubbish, or any dirt, filth, or other noisome or offensive matter or thing; or causes or suffers to run, drain, or be brought thereunto, the water of any sink, sewer, drain, engine, or boiler, or any other unwholesome or offensive liquid matter or thing belonging to him or flowing from any house or building or from any ground occupied by him; or does any thing whatsoever whereby any such water shall be in any degree fouled or corrupted,—shall be liable to a fine not exceeding Fifty Rupees.

Fouling water
by—Bathing,—
Washing,—
Throwing rub-
bish, &c. Allow-
ing drain water
to flow into a
public tank

XLI. When any tank or other excavation containing waste or stagnant water, the same being within any private enclosure, appears to the Magistrate to be injurious to health, or to be offensive to the neighbourhood, it shall be lawful for the Magistrate to require, by notice in writing, the owner

Power to fill
up unwholesome
tanks or private
premises.

of the premises to cleanse or fill up such tank or excavation ; and if he do not begin to cleanse or fill up the same within one week after such notice, and do not complete such work with due diligence, the Magistrate, his officers, and workmen, may enter into the said premises and do all necessary acts for the purpose aforesaid as he shall think fit ; and the expense incurred thereby shall be paid by the owner of such premises, and shall be recoverable as hereinafter provided.

Power to drain off and cleanse stagnant pools in open places.

XLII. The Magistrate may, from time to time as he shall see fit, drain off into any sewers, and cleanse and fill up, or otherwise abate, any stagnant pool, ditch, tank, pond, or other receptacle of water (the same not being within any private enclosure), which shall appear to him to be useless or unnecessary, or likely to prove injurious to the health of the inhabitants, whether the same be the private property of any person or otherwise.

Penalty for not lighting deposits of building materials or excavations.

XLIII. No person intending to build, or take down, alter, or repair any building, shall deposit any building materials, or make a hole in any street, without the permission of the Magistrate ; and when such permission is granted to any person, he shall, at his own expense, cause such materials or such hole to be sufficiently fenced and enclosed until the materials are removed, or the hole is filled up or otherwise made secure, and shall cause the same to be sufficiently lighted during the night ; and whoever deposits materials or makes a hole without such permission, or fails to fence or enclose and light such materials or hole, or does not remove such materials or fill up such hole when the permission has been withdrawn, shall be liable to a fine not exceeding Fifty Rupees, and a further fine not exceeding Fifty Rupees for every day while the offence is continued after twenty-four hours' notice from the Magistrate.

Places dangerous to passengers to be repaired or enclosed.

XLIV. If any building, tank, well, or hole, or other place be, for want of sufficient repair, protection, or enclosure, dangerous to passengers, the Magistrate shall cause the same to be repaired, protected, or enclosed, so as to prevent danger therefrom ; and the expenses of such repair, protec-

tion, or enclosure, shall be paid by the owner of the property so repaired, protected, or enclosed, and shall be recoverable as hereinafter provided.

XLV. No place, which is not used as a slaughter-house at the time of the passing of this Act, shall be so used without a license in writing from the Magistrate; and whoever uses as a slaughter-house any place not so used at the time of the passing of this Act, without such license, shall be liable to a fine not exceeding One Hundred Rupees, and a fine not exceeding Fifty Rupees for every day after the conviction for such offence during which the said offence is continued.

Penalty for establishing a slaughter-house without license.

XLVI. Every owner or occupier of any slaughter-house, or of any market or shop for the sale of butcher's meat, fish, or vegetables, shall keep the same in a cleanly and proper state, and shall admit at all reasonable hours any person authorized by the Magistrate to enter and inspect the same; and the owner or occupier of any such slaughter-house, market, or shop, which shall not be kept in a cleanly and proper state, shall be liable for every default to a fine not exceeding Twenty Rupees.

Penalty for keeping slaughter-house in improper state.

XLVII. Within the limits which shall be prescribed for the purposes of this Section by the Lieutenant-Governor of Bengal, no place shall be newly used, except under license from the Magistrate, for any of the following purposes, namely, for melting tallow—or for boiling offal or blood—or as a soap-house—oil-boiling house—dyeing house—tannery—brick, pottery, or lime kiln—sago manufactory—or other manufactory or place of business from which offensive or unwholesome smells arise—or as a yard or depôt for hay, straw, wood, or coal; and whoever, without a license, uses any such place for such purpose, shall be liable to a fine not exceeding Two Hundred Rupees, and a fine not exceeding Fifty Rupees for every day after the conviction for such offence during which the said offence is continued.

Penalty for establishing offensive and dangerous trades within certain limits.

XLVIII. No burial or burning ground, whether public or private, shall be made or formed after the passing of this

No burial or burning place henceforth to be

constructed
without leave of
Magistrate.

Act, otherwise than by or under the authority of the Lieutenant-Governor of Bengal, without a license from the Magistrate; and whoever shall bury or burn, or cause, permit, or suffer to be buried or burned, any corpse in any burial or burning ground, made or formed without such license, shall be liable to a fine not exceeding two hundred Rupees.

Magistrate may
order certain
burial or burning
places to be
closed.

XLIX. If, upon the evidence of competent persons, it shall appear to the Magistrate that any burial or burning ground is in such a state as to be dangerous to the health of persons living in the neighbourhood thereof, and also that a convenient place for interment or burning, as the case may be, exists within a convenient distance and is available, the Magistrate, with the sanction of the Lieutenant-Governor of Bengal previously obtained, may, by notification to be affixed on some conspicuous part of the ground, appoint a time, not being less than two months, for the closing of such burial or burning ground; and whoever after the time so appointed buries or burns, or causes or permits to be buried or burned any corpse therein, shall be liable to a fine not exceeding One Hundred Rupees.

Stray dogs.

L. It shall be lawful for the Magistrate, by order in writing to be affixed at the principal Police Stations and also to be published in some public newspaper, to appoint from time to time certain periods within which any dogs, found straying in the streets or beyond the enclosures of the houses of the owners of such dogs, may be destroyed.

Police Officer
may arrest with-
out warrant on
view of offence.

L.I. Any Police Officer may arrest without a warrant any person committing in his view any offence against this Act, if the name and address of such person be unknown to him.

Police Officer
may take into
custody, without
warrant, persons
charged with ag-
gravated assault,
recently com-
mitted

L.II. Any Police Officer may take into custody, without a warrant, any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed, although not in his view, and that, by reason of the recent

commission of the offence, a warrant could not have been obtained for the apprehension of the offender.

LIII. Every person taken into custody without a warrant by a Police Officer under this Act shall be taken to the nearest Police Office, in order that such person may be detained until he can be brought before the Magistrate, or until he shall enter into recognizances, with or without sureties, for his appearance before the Magistrate. Any person so detained, and not entering into recognizances, shall be carried before the Magistrate within twenty-four hours from the time of his being taken into custody. •

Persons taken into custody by a Police Officer without warrant may be detained in Police Office until they can be brought before a Magistrate or bailed.

LIV. Upon any information or complaint laid before the Magistrate of any offence committed against this Act, the Magistrate may summon the person charged to appear at a time to be mentioned in the summons; or, if he see sufficient cause for so doing, may issue a warrant for his apprehension. The provisions of the general Regulations of the Bengal Code and Acts of the Government of India for the time being in force, relative to the issue and service of summonses and warrants, to the summons, attendance, and examination of witnesses, and generally to the trial of cases, to the recovery of fines and penalties, and to appeals against orders and sentences passed by a Magistrate, shall be applicable to all cases under this Act. Provided that, in all cases of offences punishable with fine only, if after due service of summons the person charged shall not appear in pursuance thereof, the Magistrate, at his discretion, may hear and determine the case in his absence. Provided also, that no appeal shall lie from any order of a Magistrate, passed with the sanction of the Lieutenant-Governor of Bengal, under Section XLIX of this Act.

Procedure on information or complaint laid before the Magistrate of an offence against this Act.

LV. In all cases where any costs or expenses are by this Act directed to be paid, the amount of the same shall be ascertained and determined by the Magistrate; and the Magistrate may, for that purpose, summon the parties, and examine them and the witnesses on their behalf; and such

Recovery of costs or expenses.

amount, together with the costs of the enquiry, shall be recoverable in the same manner as fines may be recovered.

Jurisdiction.

LVI. Any Joint Magistrate or Deputy Magistrate duly authorized to exercise the powers of a Magistrate, and any Assistant vested with special powers, may, in cases referred to him by the Magistrate, exercise all the powers vested in a Magistrate by this Act.

Application of fines

LVII. All fines imposed and levied under this Act shall be applied in aid of any fund applicable to Police and Conservancy purposes in the said Suburbs or Station; and all costs and expenses, which the Magistrate is hereby authorized to incur, shall be paid from and repaid to such fund, or, if there be no such fund, all such fines as aforesaid shall be applied by the Magistrate to the cleansing or otherwise improving of the said Suburbs or Station.

Act to supersede the provisions of Act XXI of 1841

LVIII. With respect to all matters expressly provided for by this Act, and within the limits subject to the same, the provisions of this Act shall be held to supersede the provisions of Act XXI of 1841.

Interpretation.

LIX. In the construction of this Act, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; words importing the masculine gender shall include females.

SCHEDULE

Of Places included in the Suburbs of Calcutta and Station of Howrah.

SUBURBS OF CALCUTTA.

The Villages composing the Government Estate of Panchanogram, and all lands belonging to any other Estate which are situate within the general limits of the said Government Estate.

Garden Reach or Moocheekola
 Ramnugger
 Singeratee
 Indree.
 Sonae
 Borrbemah
 Rajahrampoor.
 Bhokylas,
 Dnkhin Sherepoor
 Kadderpoor
 Bykantpoor
 Adee Gunga Chur
 Ramchunderpoor
 Ekkalpoor.

Mominpoor.
 Balrampoor.
 Alleepoor.
 Jeeraut
 Radhanuggur
 Gopalnuggur
 Doorgapoor
 Chetlah
 Jarool
 Dowlutpoor.
 Sonadanga
 Manjrat
 Moyapoor
 Shurhupoor

STATION OF HOWRAH

Howrah, (including)
 Panchanuntolla
 Jolapara
 Chandmury (with Tundal
 Bagan)
 North Bettra
 South Bettra
 Ichapoor
 Saunpoor
 Gholadanga
 Ramkistopore
 Khooiat (with Kisondia)
 Chuckerbair
 Santragatchee
 Sathghurra
 Godar Hat with Kinkur
 Chatterjeas Hat)
 Battore
 Seebport with Baje Seebport
 Mjanhat, Bhurpara, Battat
 tola, Sreechurrynowpara,

Bishop's College, and Com-
 pany's Botanical Garden)
 Puddopookhur
 South Baxara
 North Baxara
 Sulkeah, including
 Bandaghat (with Hurrogunge
 and Banerjeapah)
 Ghosery (with Bhat Bagan)
 Mahipanchghura.
 Barrackpore,
 Bellore
 Nukshah
 Chukpara
 Nellore
 Belgatchia with Paikan Bel
 gatchia)
 Banungutchee
 Chowrasta (with Dhurmtolla,
 Goghatta, and Baboodanga).
 Golabairi (with Pheelkana)

BOMBAY.

ACT No. XXII. OF 1857.*

1. *Incorporation.*
2. *Power to hold and dispose of property.*
3. *Constitution of Body Corporate. Senate. Office vacated by leaving India.*
4. *Chancellor.*
5. *Vice-Chancellor.*
6. *Fellows.*
7. *The appointment of a Fellow may be cancelled.*
8. *Chancellor, Vice-Chancellor, and Fellows, to superintend the affairs of the University. Bye-laws.*
9. *Meetings of the Senate.*
10. *Appointment and removal of Examiners and Officers.*
11. *Power to confer Degrees.*
12. *Qualification for admission of candidates for Degrees.*
13. *Examination for Degrees.*
14. *Grant of Degrees.*
15. *Fees. Annual accounts.*

An Act to establish and incorporate an University at Bombay.

WHEREAS, for the better encouragement of Her Majesty's subjects of all classes and denominations within the Presidency of Bombay and other parts of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Bombay for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and of rewarding them by Academical Degrees as evidence of their respective attainments, and marks of honor proportioned thereunto; and whereas, for effectuating the purposes aforesaid, it is expedient that such University should be incorporated; It is enacted as follows: (that is to say)—

Incorporation.

1. The following persons, namely,

The Right Honorable JOHN, LORD ELPHINSTONE,
Governor of Bombay.

The Honorable Sir WILLIAM YARDLEY, Knight,
Chief Justice of the Supreme Court of Judicature at Bombay.

* The power of conferring Degrees in addition to those mentioned in this Act has been granted, and the provisions of this Act with respect to Degrees and examinations for Degrees have been extended to the additional Degrees, by Act XLVII., 1860.

The Right Reverend JOHN HARDING,
Doctor of Divinity, Bishop of Bombay, *Ex-officio*.

The Honorable SIR HENRY SOMERSET, Lieutenant-General,
Knight Companion of the Most Honorable Order of the Bath,
Commander-in-Chief of the Forces in Bombay, *Ex-officio*.

The Honorable JAMES GRANT LUMSDEN,
Member of the Council of Bombay, *Ex-officio*.

The Honorable ARTHUR MALET,
Member of the Council of Bombay, *Ex-officio*.

EDWARD IRVINE HOWARD, Esquire,
Director of Public Instruction, *Ex-officio*.

ROBERT HAINES, Esquire, M. D.,
Acting Educational Inspector, Presidency Division, *Ex-officio*.

C. MOREHEAD, Esquire, M. D.,
Principal of the Grant Medical College, *Ex-officio*.

JOHN HARKNESS, Esquire, L. L. D.,
Principal of the Elphinstone College, *Ex-officio*.

THE REVEREND JAMES McDONALD,
Acting Principal of the Poona College, *Ex-officio*.

PHILIP WILLIAM LLEGYTT, Esquire,
Member of the Legislative Council of India.

The Honorable SIR MATTHEW RICHARD SAUSSE, Knight,
Puisne Judge of the Supreme Court of Judicature at Bombay.

SIR JAMSETJE JEEJEEBHoy, Knight.

METCALFE LARKEN, Esquire,
Judge of the Sudder Court in Bombay, and President
of the late Board of Education.

JUGGONATH SUNKERSETT, Esquire,
Member of the late Board of Education.

BOMANJEE HORMUSJEE, Esquire,
Member of the late Board of Education.

BHAO DAJEE, Esquire,
Graduate of the Grant Medical College,
Member of the late Board of Education.

MATTHEW SPROVILL, Esquire,
Surgeon in the Bombay Army,
Secretary to the late Board of Education.

CLAUDIUS JAMES ERSKINE, Esquire,
Civil Service, late Director of Public Instruction.

WILLIAM EDWARD FRERE, Esquire,
Member of the Royal Asiatic Society, and
President of the Bombay Branch of the Royal Asiatic Society,
Judge of the Sudder Court in Bombay.

Major General CHARLES WADDINGTON,
Companion of the Most Honorable Order of the Bath,
Chief Engineer of Public Works.

The Reverend JOHN WILSON,
Doctor of Divinity, Fellow of the Royal Society, Honorary
President of the Bombay Branch of the Royal Asiatic Society.

The Reverend PHILIP ANDERSON, Master of Arts,
Chaplain on the Bombay Establishment.

HENRY BARTLE EDWARD FRERE, Esquire,
Commissioner in Scinde.

Lieutenant EDWARD FRÉDÉRIC TIERNEY FERGUSON, Indian Navy
MAHOMED YUSOOF MOORGAY, Cazee of Bombay.

JAMES JOHN BEARLEY, Esquire,
Fellow of the Geographical Society, M. I. C. E.,
President of the Bombay Mechanics' Institution, and Chief Resident
Engineer of the Great Indian Peninsular Railway Company.

HENRY LACON ANDERSON, Esquire,
Secretary to Government.

being the first Chancellor, Vice-Chancellor, and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor, or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor, or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Bombay; and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be answered unto, in every Court of Justice within the territories in the possession and under the government of the East India Company.

Power to hold
and dispose of
property

II. The said Body Corporate shall be able and capable in law to take, purchase, and hold any property, moveable or immoveable, which may become vested in it for the purposes of the said University by virtue of any purchase, grant, testamentary disposition, or otherwise; and shall be able and capable in law to grant, demise, alien, or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the said University; and also to do

all other matters incidental or appertaining to a Body Corporate.

III. The said Body Corporate shall consist of one Chancellor, one Vice-Chancellor, and such number of ex-officio and other Fellows as the Governor of Bombay in Council hath already appointed, or shall from time to time, by any order published in the *Bombay Gazette*, hereafter appoint; and the Chancellor, Vice-Chancellor, and Fellows for the time being shall constitute the Senate of the said University. Provided that, if any person being Chancellor, Vice-Chancellor, or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant

**Constitution of
Body Corporate.
Senate. Office
vacated by leav-
ing India,**

IV. The Governor of Bombay for the time being shall be the Chancellor of the said University, and the first Chancellor shall be the Right Honorable John Lord Elphinstone.

Chancellor.

V. The first Vice-Chancellor of the said University shall be Sir William Yardley, Knight. The office of Vice-Chancellor shall be held for two years only, and the Vice-Chancellor herein-before nominated shall go out of office on the first day of January 1859. Whenever a vacancy shall occur in the office of Vice-Chancellor of the said University by death, resignation, departure from India, effluxion of time or otherwise, the Governor of Bombay in Council shall, by notification in the *Bombay Gazette*, nominate a fit and proper person, being one of the Fellows of the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy. Provided that, on any vacancy in the said office which shall occur by effluxion of time, the Governor of Bombay in Council shall have power to re-appoint the Vice-Chancellor herein-before nominated, or any future Vice-Chancellor, to such office.

**Vice-Chancel-
lor**

VI. The Chief Justice of Her Majesty's Supreme Court of Judicature, the Bishop of Bombay, the Members of the Council of Bombay, the Director or Acting Director of Public Instruction, the Educational Inspector or Acting Edu-

Fellows

educational Inspector of the Presidency Division, the Principals and Acting Principals of Government Colleges, all for the time being, shall, while filling such offices, be ex-officio Fellows of the said University. The whole number of the Fellows of the said University, exclusive of the Chancellor and Vice-Chancellor for the time being, shall never be less than twenty-six; and whenever the number of the said Fellows, exclusive as aforesaid, shall by death, resignation, departure from India, or otherwise, be reduced below twenty-six, the Governor of Bombay in Council shall forthwith, by notification in the *Bombay Gazette*, nominate so many fit and proper persons to be Fellows of the said University as, with the then Fellows of the said University, shall make the number of such Fellows, exclusive as aforesaid, twenty-six. But nothing herein contained shall prevent the Governor of Bombay in Council from nominating more than twenty-six persons to be Fellows of the said University, if he shall see fit.

The appointment of a Fellow may be cancelled.

VII. The Governor of Bombay in Council may cancel the appointment of any person already appointed or hereafter to be appointed a Fellow of the University; and as soon as such order is notified in the *Gazette*, the person so appointed shall cease to be a Fellow.

Senate to superintend the affairs of the University.
Bye-laws

VIII. The Chancellor, Vice-Chancellor, and Fellows for the time being shall have the entire management of and superintendence over the affairs, concerns, and property of the said University; and in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor, and Fellows to act in such manner as shall appear to them best calculated to promote the purposes intended by the said University. The said Chancellor, Vice-Chancellor, and Fellows shall have full power from time to time to make and alter any bye-laws and regulations (so as the same be not repugnant to law, or to the general objects and provisions of this Act) touching the examination for Degrees and the granting of the same; and touching the examination for honors and the granting of marks of honor for a higher proficiency

in the different branches of Literature, Science, and Art; and touching the qualifications of the candidates for Degrees, and the previous course of instruction to be followed by them, and the preliminary examinations to be submitted to by them; and touching the mode and time of convening the meetings of the Chancellor, Vice-Chancellor, and Fellows; and, in general, touching all other matters whatever regarding the said University. And all such bye-laws and regulations, when reduced into writing, and after the common seal of the said University shall have been affixed thereto, shall be binding upon all persons, members of the said University, and all candidates for Degrees to be conferred by the same, provided such bye-laws and regulations shall have been first submitted to and shall have received the approval of the Governor of Bombay in Council.

IX. All questions which shall come before the Chancellor, Vice-Chancellor, and Fellows, shall be decided at a meeting of the Senate by the majority of the members present; and the Chairman at any such meeting shall have a vote, and, in case of an equality of votes, a second or casting vote. No question shall be decided at any meeting, unless the Chancellor, or Vice-Chancellor, and five Fellows, or, in the absence of the Chancellor and Vice-Chancellor, unless six Fellows at the least shall be present at the time of the decision. At every meeting of the Senate, the Chancellor, or in his absence the Vice-Chancellor, shall preside as Chairman; and, in the absence of both, a Chairman shall be chosen by the Fellows present, or the major part of them.

Meetings of
the Senate.

X. The said Chancellor, Vice-Chancellor, and Fellows for the time being shall have full power from time to time to appoint, and as they shall see occasion to remove, the Examiners, Officers, and servants of the said University.

Appointment
and removal of
Examiners
Officers

XI. The said Chancellor, Vice-Chancellor, and Fellows shall have power, after examination, to confer the several Degrees of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, and Master of Civil Engineering; they shall also have power, after

Power to confer
degrees,

examination, to confer upon the candidates for the said several Degrees marks of honor for a high degree of proficiency in the different branches of Literature, Science, and Art, according to rules to be determined by the bye-laws to be from time to time made by them under the power in that behalf given to them by this Act.

**Qualification
for admission of
candidates for
Degrees**

XII. Except by special order of the Senate, no person shall be admitted as a candidate for the Degree of Bachelor of Arts, Master of Arts, Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine, or Master of Civil Engineering, unless he shall present to the said Chancellor, Vice-Chancellor, and Fellows, a certificate from one of the Institutions authorized in that behalf by the Governor of Bombay in Council, to the effect that he has completed the course of instruction prescribed by the Chancellor, Vice-Chancellor, and Fellows of the said University, in the bye-laws to be made by them under the power in that behalf given by this Act.

**Examination
for Degrees.**

XIII. The said Chancellor, Vice-Chancellor, and Fellows shall cause an examination for Degrees to be held at least once in every year; on every such examination the candidates shall be examined either by Examiners appointed for the purpose from among the Fellows by the said Chancellor, Vice-Chancellor, and Fellows, or by other Examiners so to be appointed; and on every such examination the candidates, whether candidates for an ordinary Degree, or for a Degree with honors, shall be examined on as many subjects and in such manner as the said Chancellor, Vice-Chancellor, and Fellows shall appoint.

**Grant of De-
grees**

XIV. At the conclusion of any examination of the candidates, the Examiners shall declare the name of every candidate whom they shall have deemed entitled to any of the said Degrees, and his proficiency in relation to other candidates; and also the honors which he may have gained in respect of his proficiency in that department of knowledge in which he is about to graduate; and he shall receive from the said Chancellor a certificate, under the seal of the said

University of Bombay and signed by the said Chancellor or Vice-Chancellor, in which the particulars so stated shall be declared.

XV. The said Chancellor, Vice-Chancellor, and Fellows shall have power to charge such reasonable fees for the Degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the Governor of Bombay in Council, shall from time to time see fit to impose. Such fees shall be carried to one general Fee Fund for the payment of expenses of the said University, under the directions and regulations of the Governor of Bombay in Council, to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said Governor of Bombay in Council may direct.

**Fees Annual
accounts**

ACT NO. XXIII OF 1857.

GENERAL.

1. *Members of Volunteer Corps to be subject to the Articles of War for the European Troops of the East India Company, so far as they are applicable to Officers and consistent with this Act. Proviso.*

2. *Appointment of and sentences by General Courts Martial.*

3. *General Courts Martial.*

4. *Regimental Courts Martial.*

5. *Proceedings of Courts Martial.*

6. *Members not on actual duty may quit the Corps after seven days' previous notice in writing, or without notice, if allowed by the Commanding Officer.*

7. *Commissions to Officers to cease on their retirement or dismissal.*

8. *Delivery of arms belonging to Government by members quitting the Corps.*

9. *No member bound to serve beyond certain distance.*

10. *Commanding Officer to frame rules.*

11. *Punishment for not attending actual duty other than drill or parade.*

12. *Punishment for not attending drill or parade, or other Military offence punishable with fine.*

13. *Punishment for non-payment of fine.*

14. *Recovery of fines.*

15. *Exemption from horse-tax.*

16. *Power to disarm persons.*

17. *Also to prevent disturbances of the public peace, to disperse unlawful assemblies, and to apprehend certain suspected persons.*

18. *Punalty for assaulting or resisting members in execution of their duty.*

19. *Interpretation of the word "Magistrate."*

20. *Enrolment of Volunteers Corps in the other Presidencies, &c.*

21. *Limitation of suits, &c.*

22. *Indemnity for acts done before the passing of this Act.*

23. *Certificate of Commanding Officer to be evidence of enrolment.*

24. *Power of Governor General to disband Corps or remove members.*

25. *Act not to extend to Volunteers listed or mustered and in pay.*

An Act to provide for the good order and discipline of certain Volunteer Corps, and to invest them with certain powers.

WHEREAS, in consequence of the rebellion and disturbances which unhappily exist in many parts of the British territories in India, many loyal subjects of Her Majesty have volunteered their services for the protection of life and property and the preservation of the peace, and have with the sanction of Government associated and enrolled themselves as Military Corps under the command of Officers appointed for that purpose, and it is necessary to provide for the good order and discipline of such Corps, and to invest them with certain powers: It is enacted as follows:—

Members of Volunteer Corps to be subject to the Articles of War for the European Troops so far as applicable to Officers.

I. Every member of any such Corps, or of any of the Corps which may be associated or enrolled with the sanction of the Governor General in Council or otherwise according to the provisions of this Act, shall, for all Military offences of which he shall be guilty whilst on actual duty or on parade, be subject to the Articles of War for the European Officers and Soldiers of the East India Company, so far as the same are applicable to Officers and consistent with the provisions of this Act. Provided that no such person shall, for any offence against the said Articles, be subject to the punishment of death.

PROVISO

Appointment of and sentences by General Courts Martial

II. General Courts Martial shall be convened and appointed by the Commanding Officer of the Corps, with the sanction of the Governor General of India in Council, for the trial of Military offences of which any member of such Corps

shall be guilty whilst on actual duty; and no sentence of such Court Martial shall be put into execution until after a report of the whole proceedings shall have been made to, and the sentence shall have been confirmed by, the Governor General in Council. The Governor General in Council may commute any such sentence for a less punishment, or pardon the offender.

III. General Courts Martial shall consist of not less than thirteen members of the Corps, and every member of the Corps, whether an Officer or not, shall be competent to sit and act as a member of such Court Martial.

General Courts
Martial.

IV. Regimental Courts Martial may be convened by the Commanding Officer of the Corps, and shall consist of not less than three members of the Corps.

Regimental
Courts Martial.

V The proceedings of Courts Martial convened under this Act shall be conducted according to the laws and customs applicable to Courts Martial held under the said Articles of War for the European Officers and Soldiers of the East India Company, except so far as the same are inconsistent with the provisions of this Act.

Proceedings of
Courts Martial

VI. Any person enrolled as a member of such Corps whether he shall have been elected or commissioned as an Officer in such Corps or not, may, except whilst on actual duty, quit the Corps upon giving to the Officer commanding the Corps seven days' previous notice in writing of his intention so to do, or without such notice if the Commanding Officer of the Corps shall consider it reasonable to allow him so to do.

Members not
on actual duty
may quit the
Corps after seven
days' previous
notice in writ-
ing, or without
notice if allowed
by the Com-
manding Officer.

VII. Every Commission to any member of such Corps, appointing him an Officer in such Corps, shall cease upon the retirement or dismissal of such member from the Corps.

Commissions
to Officers to
cease on their re-
tirement or dis-
missal.

VIII. Every person who shall have received any arms, ammunition, accoutrements, or uniform belonging to Government, or which shall have been furnished from the public stores or at the public expense, shall, upon his quitting such Corps, or upon his dismissal therefrom, or whenever he shall be

Delivery of
arms belonging
to Government
by members
quitting the
Corps.

required so to do by the Commanding Officer of the Corps, or whenever the said Corps shall be disbanded, deliver up to the Commanding Officer, or such person as he shall appoint to receive the same, all such arms, ammunition, accoutrements, and uniform in good order and condition, reasonable wear thereof only excepted; and in default thereof he shall pay such sum of money as shall be adjudged by a Regimental Court Martial to be assembled for that purpose by the Commanding Officer of the Corps, which adjudication shall be deemed a judgment, and may be enforced by any Court of Civil jurisdiction under the provisions of Acts XXXIII of 1852 and XXXIV of 1855.

No member bound to serve beyond certain distance

IX No member of such Corps shall be bound, without his consent, to serve or proceed on duty beyond the limits within which he shall have voluntarily engaged to serve or proceed on duty, in accordance with the terms upon which the Corps to which he belongs shall have been constituted; and in case no such limits shall have been fixed, he shall not be liable to serve or proceed on duty beyond four miles from the place at which he was enrolled.

Commanding Officer to frame rules.

X. The Commanding Officer of the Corps may frame such general rules as he may think fit for regulating the times at which and the manner in which the duties of the Corps and of the several members or detachments thereof shall be discharged; and such rules, when sanctioned by the Governor General in Council, shall be binding on the Corps and on the several members thereof.

Punishment for not attending actual duty other than drill or parade.

XI. If any member of such Corps, being warned for actual duty other than drill or parade, shall without reasonable excuse neglect to attend such duty, he shall be liable, upon conviction by a General Court Martial, to a fine not exceeding one hundred Rupees, or to simple dismissal from the Corps, or to dismissal from the Corps as unworthy to belong to it.

Punishment for not attending drill or parade or other Military office punishable with fine

XII. If any member of such Corps shall without reasonable excuse neglect to attend drill or parade at such

times as may be appointed for that purpose, or shall be guilty of any neglect of duty or other Military offence which in the judgment of the Commanding Officer of the Corps will be sufficiently punished by a small fine, he shall be liable to pay such sum, not exceeding Fifty Rupees, as a Regimental Court Martial shall adjudge.

XIII. In case any member of such Corps shall neglect or refuse to pay any fine to which he shall be sentenced by any Court Martial, within such time as shall be fixed by the Commanding Officer of the Corps, he may be dismissed by the said Commanding Officer from the said Corps; and every dismissal shall be recorded and reported to the Governor General in Council.

Punishment for non-payment of fine.

XIV. Every sentence of a Court Martial, by which a fine shall be imposed, shall be deemed a judgment, and may be enforced by any Court of Civil jurisdiction under the provisions of Acts XXXIII of 1852 and XXXIV of 1855.

Recovery of fines.

XV. Every mounted Officer, and every mounted orderly of such Corps, and every member of such Corps for the time during which he shall belong to a troop of Cavalry in such Corps, shall be at liberty to keep one horse without being liable to pay in respect thereof any tax imposed upon horses.

Exemption from horse-tax.

XVI. It shall be lawful for any member of such Corps, whenever he may be in discharge of his duty as a member of the Corps, and wheresoever he may then be, to disarm any person, not being in the Military or Naval Service of the Queen or of the East India Company, or a Police Officer, who shall be found between sun-set and sun-rise in any public street, thoroughfare, or other public place, armed with a sword, spear, gun, or other fire-arms or warlike instruments, without a pass or license for that purpose from the Commissioner of Police or other officer authorized by Government to grant such pass; and also to disarm any person who may be found armed at any time contrary to law or to any order of Government in any public street, thoroughfare,

Power to disarm persons.

or other public place ; and also to apprehend and deliver over to a Police Officer any person so found armed, in order that he may be dealt with according to law ; and the weapon so seized shall be forfeited to Government or otherwise dealt with according to law or to the orders of Government.

Also to prevent disturbances, to disperse unlawful assemblies, and to apprehend suspected persons.

XVII. It shall also be lawful for any member of such Corps, whenever he may be on duty, to prevent any disturbance of the public peace ; and to disperse any persons whom he may find assembled together to the number of five or more, without reasonable cause, between sun-set and sun-rise in any public street, thoroughfare, or other public place in which such member of the said Corps may be in the discharge of his duty ; and also to apprehend any person against whom there shall be reasonable grounds to suspect that he has committed or is about to commit any offence against the State, or that he has aided or is about to aid any other person in the commission of such offence, or that he has incited or is about to incite any person or persons to mutiny or rebellion or other offence against the State ; and to deliver him over to some Police Officer.

Penalty for assaulting or resisting members in execution of their duty.

XVIII. Whoever assaults or resists, or aids or assists any person in assaulting or resisting, or incites any person to assault or resist, any member of such Corps in the execution of his duty, shall be liable, on conviction before a Magistrate or Justice of the Peace, to a fine not exceeding Two Hundred Rupees, or to imprisonment for any term not exceeding six calendar months with or without hard labour.

Interpretation of the word "Magistrate."

XIX. The word "Magistrate" shall include Magistrates of Police, Joint Magistrates, and persons exercising the powers of a Magistrate.

Enrolment of Volunteer Corps by the Local Governments.

XX. Corps may be enrolled in the Presidencies of Fort St. George and Bombay respectively, or if the Governor General in Council shall so order, in the Lieutenant Governorship of Bengal, or in the Lieutenant-Governorship of the North-Western Provinces, or in the Punjab, or in the Provinces of Oude or Nagpore, or other place ; and all powers hereby

vested in, and acts required to be sanctioned or confirmed by, the Governor General of India in Council shall, as regards Corps enrolled in either of the Presidencies of Fort St. George or Bombay respectively, be exercised, sanctioned, or confirmed by the Governor in Council of such Presidency ; and if the Governor General in Council shall so order, may as regards Corps to be enrolled within their respective jurisdictions be exercised, sanctioned, or confirmed by the Lieutenant-Governor of Bengal or the Lieutenant-Governor of the North-Western Provinces, or by the Chief Commissioners of the Punjab and Oude, respectively, or the Commissioner of Nagpore, or such other Officer as the Governor General in Council shall authorize in that behalf.

XXI. No suit, action, or other proceeding shall be commenced or prosecuted against any person for anything done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended action and of the cause thereof, nor after tender of sufficient amends, nor after the expiration of three months from the accrual of the cause of action or other proceedings.

Limitation of suits, &c.

XXII. Every person who shall have been enrolled in any such Corps before the passing of this Act shall be entitled to the benefit and protection of this Act, and is hereby indemnified for all acts done by him in the discharge of his duty, which he would have been authorized to do by this Act if it had been in force at the time.

Indemnity for acts done before the passing of this Act.

XXIII. A certificate of enrolment in such Corps, signed by the Commanding Officer thereof, shall be *prima facie* evidence of such enrolment without any further proof.

Certificate of Commanding Officer to be evidence of enrolment.

XXIV. The Governor General in Council may disband any Corps enrolled under the provisions of this Act, or remove from the Corps any member thereof, whenever he shall think it necessary or proper so to do.

Power of Governor General to disband Corps or remove members.

XXV. This act shall not extend to any Volunteers listed or mustered and in pay.

Act not to extend to Volunteers listed or mustered and in pay.

ACT No XXIV OF 1857.

EXPIRED.

GENERAL.

ACT No. XXV OF 1857.

- 1 *Forfeiture of property on conviction of Mutiny*
- 2 *Adjudication of forfeiture in case of death or escape of offender before conviction of an offence for which property is liable to be forfeited.*
- 3 *Forfeiture to extend to all property possessed by the offender at the time of the commission of the offence. proviso.*
- 4 *Forfeiture of land alienated without valuable consideration before the commission of the offence. Unless alienation made and registered three months before.*
- 5 *Court may specify in the conviction the day on which the offence was committed*
- 6 *What shall be proved by the conviction or adjudication.*
- 7 *Procedure for the recovery of forfeited property*
- 8 *Forfeited property or the proceeds to be restored upon proof that escape was not for the purpose of evading justice.*
- 9 *Limitation of suits, &c.*
- 10 *Power to secure property before forfeiture in certain cases.*
- 11 *Interpretation.*

An Act to render Officers and Soldiers in the Native Army liable to forfeiture of property for Mutiny, and to provide for the adjudication and recovery of forfeitures of property in certain cases.

WHEREAS it is expedient to render Officers and Soldiers in the Native Army, who shall be convicted of Mutiny, subject to the forfeiture of all their property, and to provide for the adjudication and recovery of forfeitures in certain cases; It is enacted as follows :—

Forfeiture of property on conviction of Mutiny.

I Every Officer and Soldier or other person subject to the Articles of War for the Native Army who shall be convicted of Mutiny, shall forfeit all his property of every description.

Adjudication of forfeiture in case of death or escape

II. If any person who shall have committed treason or any offence for which, by this Act or Act XI of 1857, or Act

XIV of 1857, or Act XVI of 1857, his property is declared to be forfeited, shall have been killed, or shall have died, or shall have escaped out of the territories of the East India Company, before he shall have been convicted of the offence, or cannot after diligent search be found ; any Court or other authority which might have tried such offender, if he could have been brought to trial, shall, upon the application of the Magistrate or other officer authorized by Government to make such application, hold an enquiry, and on proof that the person charged with having committed the offence was guilty thereof, and that he is dead, or has escaped out of the territories of the East India Company, or cannot after diligent search be found, shall adjudge that all the property of such offender shall be forfeited to Government.

of offender before conviction.

III. The forfeiture, whether upon conviction of such an offence as aforesaid or upon an adjudication of forfeiture under this Act, shall extend to all property and effects of or to which the offender shall have been possessed or entitled, either at the time of committing the offence, or at the time of the conviction or of the adjudication of forfeiture, or at any intermediate time ; and no sale, alienation, or other disposition of such property, made subsequently to the commission of the offence, or made at any time with the fraudulent intention of preventing a forfeiture, shall have any effect against the right of Government to the forfeiture. Provided, that nothing in this Section contained shall affect any transferee of any negotiable security, who shall prove that he acquired the same in good faith and with due caution for valuable consideration.

Forfeiture to extend to all property possessed by the offender at the time of the offence.

Proviso.

IV. All immoveable property of the offender, which shall be alienated after the passing of this Act and before the commission of any offence specified in Section II, shall be forfeited in the same manner as if no such alienation had been made, unless the alienation be made in good faith and for valuable consideration, or unless the same shall have been made and registered more than three months before the commission of the offence.

Forfeiture of land alienated without valuable consideration before the commission of the offence, unless alienation made and registered three months before.

Court may specify the day on which the offence was committed.

V. The Court, or other authority by which the offender shall be convicted or the forfeiture shall be adjudged, may specify in the conviction or adjudication the day on which the offence was committed, if it can be ascertained.

What matters shall be proved by the conviction or adjudication

VI. In any proceeding concerning property alleged to have been forfeited, the conviction shall be conclusive evidence that the offence was committed, and (if the day be specified in such conviction) that the offence was committed on that day ; if the day be not specified, the conviction shall be *prima facie* evidence that the offence was committed on the day mentioned in the charge. In any such proceeding, an adjudication of forfeiture under this Act shall be *prima facie* evidence of the commission of the offence, and (if the day be specified in the adjudication) that the offence was committed on that day ; if the day be not specified, the adjudication shall be *prima facie* evidence that the offence was committed on the day mentioned in the charge. Any adjudication under this Act shall be filed with and may be proved in the same manner as the records of the principal Court of Criminal jurisdiction of the district.

Procedure for the recovery of forfeited property.

VII. After the conviction or adjudication, the Collector or other Chief Officer appointed by Government for the collection of Revenue, or any other officer whom the Government may specially appoint, may seize and take possession of the forfeited property ; if he require the assistance of a Court to enable him to obtain possession of any such property by reason of any dispute respecting the title to the same or for any other cause, the principal Civil Court of original jurisdiction of the District in which the property is situate may, upon the production of a certified copy of the conviction or adjudication, hear and determine in a summary manner upon petition any matter in dispute relating to such property. Any order which may be passed by the Court shall not be subject to appeal ; but the party, against whom the same may be given by any Court other than one of Her Majesty's Supreme Courts of Judicature, shall be at liberty to bring a suit

to establish his right at any time within one year from the date of the order.

VIII. In case any person whose property shall have been so adjudged to be forfeited shall within one year after the seizure of any part of his property as a forfeiture surrender himself, and shall upon trial before a competent Court be acquitted of the offence, his property or the proceeds thereof shall be restored upon proof, to the satisfaction of the Court, that he did not escape or keep out of the way for the purpose of evading justice.

Forfeited property or the proceeds to be restored upon proof that escape was not for the purpose of evading justice.

IX. No suit or other proceeding shall be had or taken on account of the seizure of any property seized in pursuance of this Act, or for the restoration or recovery of such property or of the proceeds thereof, unless the same be instituted within one year from the time of the seizure.

Limitation of suits, &c.

X. In case it shall appear to a Magistrate that there is reasonable ground to suppose that any person is guilty of any offence specified in Section II of this Act, and that any property liable to forfeiture for the offence is likely to be made away with, it shall be lawful for the Magistrate to attach such property and secure the same until the trial of the offender, or until an enquiry for the purpose of adjudication under this Act shall be had.

Power to secure property before forfeiture in certain cases.

XI. The word "Magistrate" in this Act shall include any officer competent to commit for trial for any offence specified in Section II of this Act.

Interpretation,

ACT No. XXVI OF 1857.

THE STRAITS.

1. *Governor may establish Ferries.*
2. *Tolls to be fixed by Governor.*
3. *Toll-keeper.*
4. *Table of tolls.*
5. *Penalty for neglecting to put up a table of tolls.*
6. *Extortion & misconduct by Toll-keeper.*
7. *Refusal to pay toll, &c.*
8. *Registry of Ferry-boats.*

9. *Bye-laws for regulating Ferry-boats, &c., to be made by Chief Civil Authority.*

10. *Carrying for hire within three miles of a Ferry, without licence of Chief Civil Authority, prohibited. Proviso.*

11. *Adjudication of penalties.*

12. *Control and management of Ferries.*

13. *Collection and farming of tolls.*

An Act for regulating Ferries in the Settlement of Prince of Wales' Island, Singapore, and Malacca.

WHEREAS it is expedient to regulate the Public Ferries within the Settlement of Prince of Wales' Island, Singapore, and Malacca; It is enacted as follows:—

Governor may establish Ferries.

I. The Governor of the said Settlement may declare what Ferries within any part of the Settlement shall be deemed Public Ferries; and at any time hereafter may establish new Ferries where they are needed; and may from time to time change the course of any Public Ferry, or discontinue any Public Ferry that is deemed unnecessary.

Tolls to be fixed by Governor.

II. Tolls, according to such rates as shall from time to time be fixed by the Governor, shall be levied upon all passengers, carts, carriages, cattle, and other animals, and on all goods and merchandise carried over any Public Ferry.

Toll-keeper.

III. At every Public Ferry a Toll-keeper shall be appointed, whose duty it shall be to take the lawful tolls.

Table of tolls.

IV. A table of tolls, written or printed in the English and Native languages, shall be hung up in some conspicuous place near every Ferry, so as to be easily read by all persons crossing at the Ferry.

Penalty for neglecting to put up a table of tolls.

V. Every Toll-keeper who shall neglect to hang up and keep in good order and repair such table of tolls, or who shall wilfully remove, alter, or deface the same, or allow it to become illegible, shall be liable to a penalty not exceeding ten Rupees.

Extortion or by misconduct Toll keeper.

VI. Every Toll-keeper who shall ask or take any toll, other than the lawful toll, or who shall without due cause

delay any passenger, cart, carriage, animal, or goods, shall be liable to a penalty not exceeding Fifty Rupees.

VII. Every person crossing at any such Public Ferry, who shall refuse to pay the toll, or who, with intent of avoiding payment thereof, shall fraudulently or forcibly pass by or through any toll-station without paying the toll, or who shall obstruct any Toll-keeper or any of his assistants in any way in the execution of their duty under this Act; and every person who shall maliciously damage any toll-bar, boat, or any other thing employed in or about any Public Ferry, or who shall maliciously remove, alter, destroy, or damage any Table of Tolls hung up as heretofore directed—shall be liable to a penalty not exceeding Fifty Rupees over and above the value of the damage, if any, which he has done.

Refusal to pay
toll, &c.

VIII. All public Ferry-boats shall be numbered and registered as the Governor of the Straits' Settlement shall direct; and the names of all Tindals, or persons placed in charge thereof, and of all Toll-keepers, shall likewise be so registered.

Registry of
Ferry-boats.

IX. The Chief Civil Authority of each Station in which there shall be a Public Ferry, shall make rules, subject to confirmation by the Governor of the Straits' Settlement, fixing the number of passengers, carts, carriages, and animals, and the quantity of goods that may be carried in any public Ferry-boat at one trip, and for the safe and convenient carriage of passengers and property, and for keeping the Ferry-boats in good order, and otherwise for the due discharge of their duty by all Tindals, Toll-keepers, and other persons employed at any Public Ferry: and any Tindal, Toll-keeper, or other person infringing or disobeying any such rule, shall be liable to a penalty not exceeding Twenty Rupees, and also to make good any loss or damage caused thereby, the amount of which shall be summarily ascertained by the Magistrate within whose jurisdiction the offence was committed; and such amount may be recovered as any penalty under this Act may be recovered.

Bye-laws for
regulating Ferry-
boats, &c., to be
made by Chief
Civil Authority.

Carrying for hire within three miles of a Ferry without license prohibited.

Proviso.

Adjudication of penalties.

Control and management of Ferries.

Collection and farming of tolls

X. Every person who shall convey for hire any passenger, animal, cart, carriage, or goods across any arm of the sea, creek, or river within the said Settlement, to any point or place on the opposite bank or coast within a distance of three miles on either side above or below any Public Ferry, without the special license of the Chief Civil Authority of the Station in which the Ferry is situated, shall be liable to a penalty not exceeding Fifty Rupees. Provided, that nothing in this Section shall subject to such penalty any person who shall specially let for hire his boat for the conveyance of any other person or his family or goods across any creek or arm of the sea within the said Settlement.

XI. All offences against this Act shall be summarily heard and determined by a Police Magistrate of the Station within the limits of which the same shall have been committed; and all penalties shall be recovered in the manner directed for the levy of fines and penalties by Act XIII of 1856.

XII Every Public Ferry shall be under the control and management of the Municipal Commissioners of the Station in which the same is situate. The said Commissioner shall appoint the Toll-keeper and such other establishment as they may deem sufficient for the purpose of this Act.

XIII. All Tolls payable at any Public Ferry shall be collected by the Municipal Commissioners of the Station in which the same is situate, and shall form part of the Municipal Fund of that Station. The said Commissioners, with the sanction of the Governor, may grant a lease of any such Ferry for any period not exceeding seven years.

MADRAS.

ACT NO. XXVII OF 1857 *

1. *Incorporation.*
2. *Power to hold and dispose of property.*
3. *Constitution of Body Corporate. Senate. Office vacated by leaving India finally.*
4. *Chancellor.*
5. *Vice-Chancellor.*

Extortion
misconduct
Toll-keeper. b.

* The power of conferring degrees in addition to those mentioned in this Act has been granted by Act XLVII. 1860.

6. *Fellows.*
7. *The appointment of a Fellow may be cancelled.*
8. *Chancellor, Vice-Chancellor, and Fellows to superintend the affairs of the University. Bye laws.*
9. *Meetings of the Senate.*
10. *Appointment and removal of Examiners and Officers.*
11. *Power to confer Degrees.*
12. *Qualification for admission of candidates for Degrees.*
13. *Examination for Degrees.*
14. *Grant of Degrees.*
15. *Fees. Annual accounts.*

An Act to establish and incorporate an University at Madras.

WHEREAS, for the better encouragement of Her Majesty's subjects of all classes and denominations within the Presidency of Fort St. George and other parts of India in the pursuit of a regular and liberal course of education, it has been determined to establish an University at Madras for the purpose of ascertaining, by means of examination, the persons who have acquired proficiency in different branches of Literature, Science, and Art, and of rewarding them by Academical Degrees as evidence of their respective attainments, and marks of honor proportioned thereunto; and whereas, for effectuating the purposes aforesaid, it is expedient that such University should be incorporated: It is enacted as follows: (that is to say)—

I. The following persons, namely,

Incorporation.

The Right Honorable GEORGE FRANCIS ROBERT, LORD HARRIS,
Governor of Fort St. George.

The Honorable SIR CHRISTOPHER RAWLINSON, Knight,
Chief Justice of the Supreme Court of Judicature at Madras.

The Right Reverend THOMAS DEALTRY,
Doctor of Divinity, Bishop of Madras, *Ex-officio*.

The Honorable SIR PATRICK GRANT, Lieutenant-General, Knight,
Commander of the Most Honorable Order of the Bath,
Commander-in-Chief of the Forces in Madras, *Ex-officio*.

The Honorable WALTER ELLIOT,
Member of the Council of Madras, *Ex-officio*

The Honorable SIR HENRY CONYNGHAM MONTGOMERY, Baronet,
Member of the Council of Madras, *Ex-officio*.

ALEXANDER JOHN ARBUTHNOT, Esquire,
Director of Public Instruction, *Ex-officio*.

EYRE BURTON POWELL, Esquire,
Principal of the Presidency College, *Ex-officio*.

HENRY FORTEY, Esquire,
Acting Principal of the Presidency College, *Ex-officio*.

JAMES KEILIE, Esquire,
President of the Medical College Council, *Ex-officio*.

The Honorable SIR HENRY DAVISON, Knight,
Puisne Judge of the Supreme Court of Judicature at Madras.

THOMAS PYCROFT, Esquire,
Chief Secretary to Government.

EDWARD MALBY, Esquire,
Acting Chief Secretary to Government.

JAMES DEWAR BOURDILLON, Esquire,
Secretary to Government.

HENRY FORBES, Esquire,
Acting Secretary to Government.

Colonel CHARLES ALFRED BROWNE,
Secretary to Government.

JAMES BLAIR PRESTON, Esquire,
Physician General.

The Reverend ROBERT HALLEY, Master of Arts,
Principal of the Doveton College.

J. TOWNSEND FLOWER, Esquire,
Principal of the Government Normal School.

P. SOOBROYOOLOO NAIDOO,
President of Patcheapah's Institution.

WILLIAM AMBROSE MOREHEAD, Esquire,
Provisional Member of the Council of Madras.

GUY LUSHINGTON PRENDERGAST, Esquire,
Accountant General.

Colonel ARTHUR THOMAS COTTON,
Commandant of Engineers.

Colonel CHARLES EDWARD FABER,
Chief Engineer in the Department of Public Works.

Lieutenant-Colonel THOMAS TOWNSEND PEARS,
Companion of the Most Honorable Order of the Bath,
Consulting Engineer for Railways.

Lieutenant-Colonel GEORGE BALFOUR,
Companion of the Most Honorable Order of the Bath.

The Reverend JOHN RICHARDS, Master of Arts.

Lieutenant-Colonel FREDERIC CONYERS COTTON,
Acting Mint Master.

CHITTUR RENGANADUM SASTRY,
Head Interpreter in the Supreme Court of Judicature.

JOHN EMELIUS MAYER, Esquire,
Professor of Chemistry and Pharmacy in the Madras Medical College.

The Reverend ROBERT KERR HAMILTON, Master of Arts.

The Reverend GEORGE HALL, Master of Arts.

The Reverend PETER SOHNSON ROYSTON, Bachelor of Arts.

JAMES SANDERSON, Esquire,
Surgeon in the Madras Army.

The Reverend JOHN BRAIDWOOD, Master of Arts.

JOHN DAWSON MAYNE, Bachelor of Arts,
Professor of Law, Moral and Mental Philosophy, and Logic, in the
Presidency College.

RICHARD BURGASS, Esquire, Master of Arts,
First Judge of the Court of Small Causes.

Lieutenant-Colonel JOHN JOSEPH LOSH, Military Auditor General.

WILLIAM JUDSON VANSOMEREN, Esquire, Doctor in Medicine,
Professor of Anatomy and Physiology in the Madras Medical College.

SAMUEL JESUDASEN, Native Surgeon.

Major JOHN MAITLAND, Superintendent Gun-carriage Manufactory.

The Reverend A. BURGESS.

The Reverend W. GRANT.

being the first Chancellor, Vice-Chancellor, and Fellows of the said University, and all the persons who may hereafter become or be appointed to be Chancellor, Vice-Chancellor, or Fellows as hereinafter mentioned, so long as they shall continue to be such Chancellor, Vice-Chancellor, or Fellows, are hereby constituted and declared to be one Body Politic and Corporate by the name of the University of Madras; and such Body Politic shall by such name have perpetual succession, and shall have a common seal, and by such name shall sue and be sued, implead and be impleaded, and answer and be

answered unto, in every Court of Justice within the territories in the possession and under the government of the East India Company.

Power to hold and dispose of property.

II. The said Body Corporate shall be able and capable in law to take, purchase, and hold any property, moveable or immoveable, which may become vested in it for the purposes of the said University by virtue of any purchase, grant, testamentary disposition, or otherwise; and shall be able and capable in law to grant, demise, alien, or otherwise dispose of all or any of the property, moveable or immoveable, belonging to the said University; and also to do all other matters incidental or appertaining to a Body Corporate.

Constitution of Body Corporate Senate. Office vacated by leaving India.

III. The said Body Corporate shall consist of one Chancellor, one Vice-Chancellor, and such number of ex-officio and other Fellows as the Governor of Fort St. George in Council hath already appointed, or shall from time to time, by any order published in the *Fort St. George Gazette*, hereafter appoint; and the Chancellor, Vice-Chancellor, and Fellows for the time being shall constitute the Senate of the said University. Provided that, if any person being Chancellor, Vice-Chancellor, or Fellow of the said University, shall leave India without the intention of returning thereto, his office shall thereupon become vacant.

Chancellor.

IV. The Governor of Fort St. George for the time being shall be the Chancellor of the said University, and the first Chancellor shall be the Right Honorable George Francis Robert, Lord Harris.

Vice-Chancellor.

V. The first Vice-Chancellor of the said University shall be Sir Christopher Rawlinson, Knight. The office of Vice-Chancellor shall be held for two years only; and the Vice-Chancellor herein-before nominated shall go out of office on the first day of January 1859. Whenever a vacancy shall occur in the office of Vice-Chancellor of the said University by death, resignation, departure from India, effluxion of time, or otherwise, the Government of Fort St. George in Council shall, by notification in the *Fort St. George Gazette*, nominate a fit and proper person, being one of the Fellows of

the said University, to be Vice-Chancellor in the room of the person occasioning such vacancy. Provided that, on any vacancy in the said office which shall occur by effluxion of time, the Governor of Fort St. George in Council shall have power to re-appoint the Vice-Chancellor herein-before nominated or any future Vice-Chancellor to such office.

VI. The Chief Justice of Her Majesty's Supreme Court of Judicature, the Bishop of Madras, the Members of the Council of Madras, the Director of Public Instruction, the Principal and Acting Principal of the Presidency College, the President of the Medical College Council, all for the time being, shall, while filling such Offices, be ex-officio Fellows of the said University. The whole number of the Fellows of the said University, exclusive of the Chancellor and Vice-Chancellor for the time being, shall never be less than thirty; and whenever the number of the said Fellows, exclusive as aforesaid, shall, by death, resignation, departure from India, or otherwise, be reduced below thirty, the Governor of Fort St. George in Council shall forthwith, by notification in the *Fort St. George Gazette*, nominate so many fit and proper persons to be Fellows of the said University, as, with the then Fellows of the said University, shall make the number of such Fellows, exclusive as aforesaid, thirty. But nothing herein contained shall prevent the Governor of Fort St. George in Council from nominating more than thirty persons to be Fellows of the said University, if he shall see fit.

Fellows.

VII. The Governor of Fort St. George in Council may cancel the appointment of any person already appointed or hereafter to be appointed a Fellow of the University, and as soon as such order is notified in the *Gazette*, the person so appointed shall cease to be a Fellow.

The appointment of a Fellow may be cancelled.

VIII. The Chancellor, Vice-Chancellor, and Fellows for the time being, shall have the entire management of and superintendence over the affairs, concern, and property of the said University; and in all cases unprovided for by this Act, it shall be lawful for the Chancellor, Vice-Chancellor, and Fellows to act in such manner as shall appear to them best

Senate to superintend the affairs of the University. Bye-laws.

calculated to promote the purposes intended by the said University. The said Chancellor, Vice-Chancellor, and Fellows shall have full power from time to time to make and alter any bye-laws and regulations (so as the same be not repugnant to law or to the general objects and provisions of this Act) touching the examination for Degrees and the granting of the same, and touching the examination for honors and the granting of marks of honor for a higher proficiency in the different branches of Literature, Science, and Art; and touching the qualifications of the candidates for Degrees and the previous course of instruction to be followed by them, and the preliminary examinations to be submitted to by them; and touching the mode and time of convening the meetings of the Chancellor, Vice-Chancellor, and Fellows; and, in general, touching all other matters whatever regarding the said University. And all such bye-laws and regulations, when reduced into writing, and after the common seal of the said University shall have been affixed thereto, shall be binding upon all persons, members of the said University, and all candidates for Degrees to be conferred by the same, provided such bye-laws and regulations shall have been first submitted to, and shall have received the approval of, the Governor of Fort St. George in Council.

Meetings of the Senate.

IX. All questions which shall come before the Chancellor, Vice-Chancellor, and Fellows, shall be decided at a meeting of the Senate by the majority of the members present; and the Chairman at any such meeting shall have a vote, and in case of an equality of votes, a second or casting vote. No question shall be decided at any meeting, unless the Chancellor, or Vice-Chancellor, and five Fellows, or, in the absence of the Chancellor and Vice-Chancellor, unless six Fellows at the least shall be present at the time of the decision. At every meeting of the Senate, the Chancellor, or in his absence the Vice-Chancellor, shall preside as Chairman; and in the absence of both, a Chairman shall be chosen by the Fellows present, or the major part of them.

Appointment and removal of Examiners and Officers.

X. The said Chancellor, Vice-Chancellor, and Fellows for the time being shall have full power from time to time to

appoint, and, as they shall see occasion, to remove all Examiners, Officers, and servants of the said University

XI The said Chancellor, Vice-Chancellor, and Fellows shall have power, after examination, to confer the several Degrees of Bachelor of Arts Master of Art Bachelor of Laws, Licentiate of Medicine, Doctor of Medicine and Master of Civil Engineering, they shall also have power after examination, to confer upon the candidates for the said several Degrees marks of honor for a high degree of proficiency in the different branches of Literature, Science, and Art according to Rules to be determined by the bye laws to be from time to time made by them under the power in that behalf given to them by this Act *

Power to confer Degrees

XII Except by special order of the Senate no person shall be admitted as a candidate for the Degree of Bachelor of Arts, Master of Arts Bachelor of Laws Licentiate of Medicine, Doctor of Medicine or Master of Civil Engineering, unless he shall present to the said Chancellor Vice-Chancellor, and Fellows a certificate from one of the Institutions authorized in that behalf by the Governor of Fort St. George in Council, to the effect that he has completed the course of instruction prescribed by the Chancellor Vice-Chancellor and Fellows of the said University in the bye law to be made by them under the power in that behalf given by this Act

Qualification for admission of candidates for Degrees

XIII The said Chancellor Vice-Chancellor and Fellows shall cause an examination for Degrees to be held at least once in every year, on every such examination the candidates shall be examined either by Examiners appointed for the purpose from among the Fellows by the said Chancellor, Vice-Chancellor and Fellows or by other Examiners so to be appointed, and on every such examination the candidates whether candidates for an ordinary Degree or for a Degree with honors, shall be examined on every subject and in such manner as the said Chancellor Vice-Chancellor, and Fellows shall appoint

Examination for Degrees

XIV At the conclusion of any examination of the candidates, the Examiners shall declare the name of every

Grant of Degrees

* See Act XLVII, 1860

candidate whom they shall have deemed entitled to any of the said Degrees, and his proficiency in relation to other candidates; and also the honors which he may have gained in respect of his proficiency in that department of knowledge in which he is about to graduate; and he shall receive from the said Chancellor a certificate, under the seal of the said University of Madras, and signed by the said Chancellor or Vice-Chancellor, in which the particulars so stated shall be declared.

**Fees. Annual
accounts.**

XV. The said Chancellor, Vice-Chancellor, and Fellows shall have power to charge such reasonable fees for the Degrees to be conferred by them, and upon admission into the said University, and for continuance therein, as they, with the approbation of the Governor of Fort St. George in Council, shall from time to time see fit to impose. Such fees shall be carried to one general Fee Fund for the payment of expenses of the said University under the directions and regulations of the Governor of Fort St. George in Council, to whom the accounts of income and expenditure of the said University shall once in every year be submitted for such examination and audit as the said Governor of Fort St. George in Council may direct.

BOMBAY.

ACT No. XXVIII OF 1857.

Extended successively by Acts XIX, 1859, and XXVI, 1859, and XXIX, 1860, and XXXI, 1860, S. S. 1 and 35, but since expired.

ACT No. XXIX OF 1857.

1. *Act repealed.*
2. *Customs Duties on goods passing by land into or out of certain Foreign European Settlements.*
3. *Land Customs Duties on goods passing into or out of territories of Native Chiefs.*
4. *Customs Stations.*
5. *Appointment of Officers. Proviso.*
6. *Government to prescribe by what roads goods may pass.*
7. *Goods unlawfully passed across the Frontier after sunset.*
8. *Written application for permission to pass goods.*

9. *Misdescription of goods in application*
10. *Government to fix the value of goods for the purpose of levying Duty.*
11. *Duty leviable on certain goods according to the market-value.*
12. *Ascertainment of market value for levy of Duty*
13. *Exemptions*
14. *Certificate of payment of Duty*
15. *Granting duplicate of lost certificate*
16. *Station Officer permitting goods to pass without payment of Duty*
17. *Veracious seizure by Station Officer*
18. *Obstruction of Officers*
19. *Offering bribes to Officers*
20. *Adjudication of confiscations, &c*
21. *Restoration of forfeited goods*
22. *Damages for veracious seizure Penalty or mitigation of confiscation. Rewards to Customs Officers*

An Act to make better provision for the collection of Land Customs on certain Foreign Frontiers of the Presidency of Bombay

WHEREAS it is expedient to make better provision for the collection and management of Land Customs on certain Foreign Frontiers of the Presidency of Bombay, It is enacted as follows —

I Act II of 1852 is hereby repealed

Act repealed.

II * Duties of Customs shall be levied on goods passing by land into or out of Foreign European Settlements situated on the line of Coast within the limits of the Presidency of Bombay, at the rates prescribed in the Schedules of Act I of 1852 for Duties of Customs leviable at the Ports of that Presidency

Customs Duties on goods passing by land into or out of certain Foreign European Settlements

III The Governor of the Presidency of Bombay in Council may declare, by notice to be published in the *Official Gazette* of that Presidency, that the territory of any Native Chief not subject to the jurisdiction of the Courts and Civil authorities of that Presidency shall be deemed to be Foreign Territory; and may declare goods passing into or out of such territory liable either to the Duty fixed by the Schedules of

Land Customs Duties on goods passing into or out of territories of Native Chiefs.

* This Section has been modified by Act XXIII, 1859.

Act I of 1852 for goods imported or exported at the Ports of that Presidency, or to double the said Duties, ^{*}as the Governor in Council may think fit.

Customs Stations

IV. For the levy of Duties of Customs as above provided on goods exported by land to, or imported by land from, such Foreign Territories, Customs Stations may be established at such places as may be determined by the Governor in Council.

Appointment of Officers

V. The Governor in Council may appoint such persons as he may deem fit for the control and supervision of the collection and management of the Customs payable under this Act as Commissioners and Deputy Commissioners of Customs, or under such other designation as the said Governor in Council shall determine; and may appoint all other proper persons to execute the duties of the several subordinate offices necessary to the due management and collection of the said Customs; and the provisions of Sections IV., V, and VI. of the said Act I of 1852 shall be applicable to the persons so appointed. Provide that no new office shall be created without the previous consent of the Governor General of India in Council

Proviso.

Government to prescribe by what roads goods may pass.

VI. The Governor in Council may prescribe, by public notice in the *Official Gazette*, by what roads and passes goods shall be allowed to pass into or out of any such Foreign Territory as is described in Sections II. and III. of this Act; and after such notice, goods which may be brought to any Station established on other roads or passes than those so prescribed, shall be detained, and shall be liable to confiscation unless the person in charge thereof shall be able to satisfy the adjudicating Officer that his carrying them by that road or pass was from ignorance or accident.

Goods unlawfully passed across the Frontier after sunset.

VII. Goods unlawfully passed, or attempted to be passed unlawfully, across any Frontier guarded by Stations, between sun-set and sun-rise, shall be seized and confiscated.

Written application permission pass goods.

**ap-
for
to**

VIII. When goods are brought to be passed at any Station established for the levy of Duties and passing of

goods, a written application, according to a form to be prescribed by the Commissioner of Customs, shall be made by the owner or person in charge, for permission to pass such goods; and such application shall contain a true description of the goods, with the marks, numbers, and description of the packages containing the same, and a declaration of their value. If any goods shall be passed or attempted to be passed without such an application in writing as is above described, they shall be liable to be seized and confiscated.

IX. Goods brought to be passed at any such Station shall be liable to confiscation, if the packages in which the same may be contained shall on examination be found not to correspond with the description of them given in the application, or if the contents thereof be found not to have been correctly described in regard to sort, quality, or quantity, or if, in or among the packages, any goods not stated in the application be found concealed or mixed up with the specified goods.

Misdescription
of goods in ap-
plication

X. The Governor in Council from time to time, by notice in the *Official Gazette*, may fix a value for any article or number of articles liable to Duty under this Act upon their value; and the value so fixed for such articles shall, till altered by a similar notice, be taken to be the value of such articles for the purpose of levying Duty on the same under this Act.

Government
to fix the value
of goods.

XI. When goods liable to Duty, for which a value has not been fixed by such a notice as is above directed, or for which a fixed Duty has not been declared by the said Schedules, are brought to any such Station as aforesaid, the Duty leviable on such goods shall be levied according to the market-value of such goods.

Duty leviable
on certain goods
according to the
market-value.

XII. If the value of any goods, upon which Duty is leviable according to the market-value thereof, shall appear to be under-stated in the declaration of value prescribed in Section VIII., the Officer authorized to receive Duties of Cus-

Ascertainment
of market-value
for levy of Duty.

toms at the Station where such goods are brought to be passed shall have power to take the goods, or any part thereof, as purchased for the Government at the price so declared; and whenever he shall so take goods for the Government, payment thereof shall be made for the same within one month from the date of the declaration, and the Officer shall sell the goods so taken on account of Government; and, if they shall realize on sale a sum exceeding all charges incurred on them by Government, a proportion not more than one-half of the excess shall, at the discretion of the Commissioner, be payable to the Officer who reported the under-valuation of the goods, who shall in like manner be liable to pay one-half of the net loss that may accrue on the sale of the said goods.

Exemptions.

XIII. No goods entered in either of the said Schedules as liable to Duty, shall be exempted from the payment of such Duty or of any part thereof, except under special order from the Governor in Council; Provided always, that any Officer authorized to receive Duties of Customs under this Act may, at his discretion, pass free of Duty any passenger's personal baggage in actual use; and if any person shall apply to have goods passed as such baggage, such Officer, acting under the orders of Government, shall determine whether they be passenger's personal baggage in actual use, or goods subject to Duty under the provisions of this Act.

**Certificate of
payment of Duty.**

XIV. When goods are passed at any such Station as afore-said, the Officer authorized to receive Duties of Customs at such Station shall grant a certificate of the payment of such Duty, or (if the case so require) of the goods having been passed free of Duty. Any Officer of Customs employed at a Station established under this Act may require any person in charge of dutiable goods which have been passed across the Frontier to produce the certificate granted for such goods; and any goods which are unaccompanied by a certificate, or which on examination do not correspond with the specification contained in the certificate produced, shall be detained and shall be liable to confiscation.

XV. If a certificate be lost by any person to whom it may have been issued by the Officer authorized to issue the same, the Commissioner of Customs, or other officer duly authorized in that behalf, on being satisfied that no fraud has been committed or was intended may grant a duplicate of such lost document upon payment of a fee of not less than one Rupee nor exceeding ten Rupees. The Commissioner or other officer as aforesaid may also authorize any amendment to be made in any application made under this Act, but, if such amendment be required after such application is entered and recorded in the Custom-house books, then upon payment of a like fee for any amendment in a document so entered.

Granting du-
plicate of lost
certificate.

XVI. Any Station Officer who shall permit goods liable to Duty to pass across the Frontier without payment of Duty, or who shall release any goods not covered by a sufficient certificate, or who shall permit such goods to pass by any road or pass other than the prescribed roads or passes, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months, or to a fine not exceeding Five Hundred Rupees, or both.

Stationary Off-
icer permitting
goods to pass
without payment
of Duty.

XVII. Any Station Officer who shall needlessly and vexatiously injure goods under the pretence of examination or in the course of his examination, or who shall wrongfully detain goods for which there is produced a sufficient certificate, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months, or to a fine not exceeding Five Hundred Rupees, or both.

Vexatious
seizure by Sta-
tion Officer.

XVIII. Whoever intentionally obstructs any Officer in the exercise of any powers given by this Act to such Officer, shall be liable, on conviction before a Magistrate, to imprisonment for any term not exceeding six months, or to a fine not exceeding One Thousand Rupees, or both.

Obstruction of
Officers

XIX. Whoever offers a bribe to any Officer appointed under this Act, in order to induce such Officer to act in a manner inconsistent with his duty, shall be liable for every

Offering bribes
to Officers.

such offence, on conviction before a Magistrate, to a fine not exceeding One Thousand Rupees, or to imprisonment for any term not exceeding six months, or both.

Adjudication
of confiscations,
&c.

XX. In all cases in which, under this Act, goods are liable to confiscation, a Commissioner or Deputy Commissioner of Customs appointed under this Act may adjudicate such confiscation, or the same may be adjudged by an Assistant Commissioner of Customs appointed under this Act being a Justice of the Peace. Provided, that the power to adjudicate confiscation shall not extend as regards an Assistant Commissioner to goods beyond the value of One Hundred Rupees; and all cases adjudicated by an Assistant Commissioner shall be liable to revision by a Commissioner or Deputy Commissioner of Customs on appeal.

Restoration of
forfeited goods.

XXI. In case any goods shall be seized as liable to confiscation, or detained as under-valued under this Act, the adjudicating Officer may order the same to be restored in such manner and on such terms and conditions as he thinks fit to direct, and if the owner of the same accept such terms and conditions, he shall not have or maintain any action for recompense or damage on account of such seizure or detention, and the adjudicating Officer shall not proceed to condemnation.

Damages for
vexatious
seizure. Penal-
ty in mitigation
of Act repealed
Rewards to Cu-
stoms Officers.

XXII. Any Officer authorized to adjudicate Customs cases, if he shall decide that a seizure of goods made under the authority of this Act was vexatious and unnecessary, may adjudge damages to be paid to the owner by the Officer who made such seizure, beside ordering the immediate release of the goods; and if the owner accepts such damages, no action shall thereafter lie against such officer in any Court of Justice on account of such seizure; and if such adjudicating Officer shall decide that the seizure was warranted, but shall deem that the penalty of confiscation is unduly severe, he may mitigate the same by levying on the goods so seized as aforesaid any portion of the market-value of such goods not less than one-tenth of such value; and if the said Officer adjudges confiscation, or any penalty in mitigation of confiscation, he may order that, from the sale of the goods, or from the proceeds of

any penalty inflicted in mitigation of confiscation, a proportion not exceeding, in all cases of seizure except seizures of Salt or Tobacco, one-half of the sum remaining after payment of all Government demands, shall be distributed in rewards amongst such Officers as he deems entitled thereto, and in such proportion as he directs to each respectively. In awarding rewards for the seizure of confiscated Salt or Tobacco, the said Officer may award one-half of the proceeds of sale, without making any deduction on account of Government demands.

ACT NO. XXX OF 1857.

CALCUTTA.

1. *Port-due chargeable on sea-going vessels of twenty tons and upwards, entering the Port.*

2. *No Port-due on vessels compelled by stress of weather to re-enter the Port.*

3. *Port-due on Dhoniies and Country vessels.*

4. *Vessels entering the Port in ballast.*

5. *Tug Steamers and River Steamers.*

6. *Fees for certain services.*

7. *Commencement of Act. Rates of Port-dues and Fees to be published. No other Port-dues or Fees to be levied.*

8. *Act to be read as part of Act XXII of 1855.*

An Act for the levy of Port-dues and Fees in the Port of Calcutta.

WHEREAS it is necessary to fix the amount of the Port-dues and Fees to be hereafter levied and taken in the Port of Calcutta in accordance with the provisions of Act XXII of 1855 ; It is enacted as follows :—

I. A Port-due, at a rate not exceeding the rate of four annas for every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of twenty tons and upwards, which shall enter the said Port.

Port-due on sea-going vessels of 20 tons entering the Port.

II. Provided that no such due shall be chargeable in respect of any vessel which, having left the Port, is compelled to re-enter it by stress of weather, or in consequence of having sustained any damage.

No Port-due on vessels compelled by stress of weather to re-enter

Port-due on
Dhoonies and
country vessels.

III. Provided also, that the Port-due chargeable in respect of Dhoonies and country vessels employed in the coasting trade shall be at a rate equal to one-half the rate chargeable in respect of other vessels; and such shall not be chargeable oftener than once in sixty days in respect of the same vessels.

Vessels enter-
ing in ballast.

IV. Vessels entering the Port in ballast shall be charged with three-fourths of the Port-due which would otherwise be chargeable.

Tug Steamers
and River Steam-
ers.

V. Tug Steamers and River Steamers belonging to the said Port shall be liable to the Port-due specified in Section I of this Act; and the said due shall be chargeable in respect of every such Steamer once between the 1st day of January and the 30th day of June, and once between the 1st day of July and the 31st day of December in each year. The provisions of Section XLVI, Act XXII of 1855, shall not be applicable to such Steamers.

Fees for certain
services

VI. Within the said Port, fees may be charged for the following services at rates not exceeding those hereinafter specified, namely,

Hauling to or from chain moorings, each operation	...	...	...	...	Rs.	16
Hauling to or from swinging moorings, each operation	...	...	...	...	"	10
Re-mooring	...	...	...	...	"	16
Hauling in or out of dock, each operation	...	...	...	...	"	30
Removing from one part of the Port to another	...	...	...	...	"	25
Removing from one mooring to another at the request of the agent or master	...	...	...	...	"	50
Hooking	...	...	...	...	"	16
Measuring	...	...	...	...	"	30

Commence-
ment of Act.
Rates to be pub-
lished. No other
Port-dues, or
Fees to be levied.

VII. This Act shall commence and have effect from and after the first day of January 1858; and the local Government shall on or before that date, pursuant to Section XLII, Act XXII of 1855, declare, by notification to be published in the

Calcutta Gazette, the rates at which Port-dues and Fees shall be levied in the said Port subject to the provisions of and within the limits prescribed by this Act ; and from and after the said date, no Port-due or Fee shall be levied at the said Port, except under the authority of Act XXII of 1855 and of this Act.

VIII. This Act shall be read with and taken as a part of Act XXII of 1855.

Act to be read
as part of Act
XXII of 1855.

ACT No. XXXI of 1857.

BOMBAY.

1. *Port-due chargeable on sea-going vessels of ten tons and upwards entering the Port.*

2. *No Port-due on vessels compelled by stress of weather to re-enter the Port.*

3. *No vessels to pay Port-due oftener than once a month.*

4. *Vessels entering the Port in ballast.*

5. *Fees for certain services.*

6. *Commencement of Act. Rates of Port-dues and Fees to be published. No other Port-dues or Fees to be levied.*

7. *Act to be read as part of Act XXII of 1855.*

An Act for the levy of Port-dues and Fees in the Port of Bombay.

WHEREAS it is necessary to fix the amount of the Port-dues and Fees to be hereafter levied and taken in the Port of Bombay in accordance with the provisions of Act XXII of 1855 ; It is enacted as follows :—

I. A Port-due, at a rate not exceeding the rate of two annas for every ton of burthen, shall be chargeable in respect of every sea-going vessel of the burthen of ten tons and upwards (except fishing boats), which shall enter the said Port.

Port-due on
sea-going vessels
of 10 tons enter-
ing the Port.

II. Provided, that no such due shall be chargeable in respect of any vessel which, having left the Port, is compelled to re-enter it by stress of weather, or in consequence of having sustained any damage.

No Port-due
on vessels com-
pelled by stress
of weather to re-
enter.

III. The Port-due chargeable under this Act shall not be chargeable oftener than once in the same calendar month in respect of the same vessel.

No vessels to
pay Port-due
oftener than
once a month.

Vessels enter-
ing in ballast.

IV. Vessels entering the Port in ballast shall be charged with three-fourths of the Port-due which would otherwise be chargeable.

Fees for cer-
tain services.

V. Within the said Port, fees may be charged for the following services at rates not exceeding those hereinafter specified, namely,

<i>Transporting</i>	<i>Fair Season.</i>	<i>Monsoon.</i>
Vessels not exceeding 300 tons	Rs 40	Rs. 65
and 10 Rupees additional for every additional 100 tons		
<i>Transporting to the Middle Ground</i>		
Vessels not exceeding 500 tons	Rs.	60
Between 500 and 1,000 tons	„	80
„ 1,000 and 1,500 tons	„	100
„ 1,500 and 2,000 tons	„	120

Vessels proceeding to sea and anchoring by desire at the Middle Ground for less than twenty-four hours, half the above rate.

Hooking	Rs. 16
Measuring	„ 30

Commence-
ment of Act.
Rates to be pub-
lished. No other
Port dues or
Fees to be levi-
ed.

VI. This Act shall commence and have effect from and after the first day of January 1858; and the local Govern- ment shall on or before that date, pursuant to Section XLII Act XXII of 1855, declare, by notification to be published in the *Bombay Gazette*, the rates at which Port-dues and Fees shall be levied in the said Port, subject to the provisions of and within the limits prescribed by this Act; and from and after the said date, no Port-due or Fee shall be levied at the said Port, except under the authority of Act XXII of 1855 and of this Act.

Act to be read
as part of Act
XXII of 1855.

VII. This Act shall be read with and taken as a part of Act XXII of 1855.

Act No. XXXII. of 1857.

Repealed by Act XXIX, 1861.

ACT No. XXXIII OF 1857.

*Extended by Act XXVIII. 1859, but since expired.**

ACT No. XXXIV OF 1857.

BOMBAY.

1. *Act II, 1841, repealed.*

2. *Provisions of Act III of 1852 extended to the sale of Ganja in the Town of Bombay. Proviso. Commissioner of Customs, Salt, and Opium, empowered to grant licenses.*

3. *Adjudication of penalties.*

An Act relating to the Sale of Ganja in the Presidency of Bombay.

WHEREAS it is expedient to regulate the sale of Ganja in the Town of Bombay, and to amend the law relating to the sale of that article within the territories subordinate to the Presidency of Bombay : It is enacted as follows :—

I. Act II of 1841 is hereby repealed.

II. The provisions of Act III of 1852, relating to the sale by license of intoxicating drugs or materials within the territories subordinate to the Presidency of Bombay, are extended to the sale of Ganja within the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature at Bombay, any thing in the said Act to the contrary notwithstanding ; Provided always that the duties, powers, and authorities vested by the said Act in the Collectors of Zillahs shall, within the aforesaid limits, be possessed and exercised by the Commissioner of Customs, Salt and Opium : and the said Commissioner shall, except as herein otherwise expressly provided, have the same powers with respect to the granting, refusing, or recalling licenses for the sale of Ganja, and with respect to the seizure and destruction or sale of unlicensed Ganja within the said limits, as are by the said Act vested in the Zillah Collectors of Land Revenue ; and all the provisions of the said Act shall be applicable to licenses granted under this Act.

III. All penalties shall within the said limits be adjudicated and levied by any Magistrate of Police for the Town of Bombay.

* Revived and continued in force till 5th December 1863 by Act 1, 1862 See Appendix.

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GAL.

ACT No. XXXV OF 1857.

1. *Port-dues on sea-going vessels of ten tons and upwards entering Port.*
2. *Rate of Port-due on vessels compelled by stress of weather to enter Port.*
3. *No Port-due on vessels compelled by stress of weather to re-enter Port.*
4. *No vessel to pay Port-due at same Port, oftener than once in sixty days.*
5. **Commencement of Act. Rates of Port-dues to be published. No Port-dues to be levied except under Act.*
6. *Act to be read as part of Act XXII of 1855.*

An Act for the levy of port-dues in the ports of Moulmein, Rangoon, Kyouk Phyoo, Akyab, and Chittagong.

WHEREAS it is necessary to fix the amount of the Port-dues to be hereafter levied and taken in the Ports of Moulmein, Rangoon, Kyouk Phyoo, Akyab, and Chittagong in accordance with the provisions of Act XXII of 1855; It is enacted as follows :—

Port-dues on
sea-going vessels
of 10 tons entering
Port.

I. Port-dues, at rates not exceeding the rates contained in the Schedule to this Act, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards which shall enter any of the said Ports.

Rate of Port-due
on vessels compelled
by stress of
weather to enter
Port.

II. When any vessel enters any of the said Ports, being driven in by stress of weather, or in consequence of having sustained any damage, or for any other reason, but does not, discharge or take in any cargo or passenger therein (with the exception of such un-shipment and re-shipment as may be necessary for the purpose of repair)—the Port-due chargeable in respect of such vessel shall be at a rate equal to one-half the rate chargeable in respect of other vessels.

No Port-due on
vessels compelled
by stress of
weather to re-enter
Port.

III. Provided that, when any vessel having left any of the said Ports is compelled to re-enter it by stress of weather, or in consequence of having sustained any damage, no Port-due shall be chargeable in respect of such vessel.

No vessel to pay
at
er than once in 60
days.

IV. No vessel shall be required to pay at the same Port any port-due chargeable under this Act oftener than once in sixty days.

V. This Act shall commence and have effect from and after the first day of January 1858 ; and the local Government shall, on or before that date, pursuant to Section XLII Act XXII of 1855, declare, by notification to be published in the *Calcutta Gazette*, the rates at which Port-dues shall be levied in any of the said Ports subject to the provisions of and within the limits prescribed by this Act ; and from and after the said date no Port-due shall be levied at any of the said Ports, except under the authority of Act XXII of 1855 and of this Act.

Commence-
ment of Act.
Rates of Port-
dues to be pub-
lished No Port-
dues to be levied
except under
Act

VI. This Act shall be read with and taken as a part of Act XXII of 1855.

Act to be read
as part of Act
XXII of 1855.

SCHEDULE.

<i>Port.</i>			<i>Maximum Rate.</i>		
Moulmein	...	...	4 annas	for every ton of burde	
Rangoon	...	...	6 annas	ditto	ditto.
Kyook Phyoo	...	...	4 annas	ditto	ditto.
Akyab	...	...	4 annas	ditto	ditto.
Chittagong	...	...	4½ annas	ditto	ditto.

MADRAS

ACT No. I OF 1858.

- 1. *Laborers may in certain cases be called upon to assist in preventing or repairing breaches in the embankments of tanks, rivers, &c.*
- 2. *Punishment for refusing or neglecting to comply with such call.*
- 3. *Rate of remuneration for laborers so employed.*
- 4. *Mode of payment. Recovery of advances from private persons.*
- 5. *Inhabitants of villages may be called upon for the supply of certain materials. Supplies how to be paid for. Recovery of advances from private persons.*
- 6. *Liability of person bound, but refusing, to contribute labor to a work of irrigation or drainage usually executed by the joint labor of a village community.*

An Act to make lawful compulsory labour for the prevention of mischief by inundation, and to provide for the enforcement of customary labor on certain works of irrigation in the Presidency of Fort Saint George

WHEREAS the safety of person and property is endangered by inundations caused by sudden breaches of the embankments of tanks, rivers, and canals, and of anicuts and other like works; and it is necessary for the common good to make it obligatory on persons of the laboring classes, when duly called upon, to unite their labor to prevent such breaches, or to repair them instantly: and whereas it is expedient to make legal provision for the enforcement of the duty, which by local custom is incumbent on village communities, to furnish the labor required for the execution of certain works for the purpose of irrigation and drainage: It is enacted as follows:

Laborers may in certain cases be called upon to assist in preventing or repairing breaches in embankments, &c.

I. Whenever it shall appear to the Officer in charge of any tank, river, or canal, or of any anicut or other like work, that there is imminent danger of the embankment of such tank, river, or canal being breached, or of a breach being made in such anicut or other work, and of a destructive inundation being caused thereby, which may be prevented by a large body of laborers immediately working together to strengthen the embankment or other works or

when such a breach has occurred, if it shall appear to such Officer that it can be repaired, and the inundation caused by it be stopped, by the immediate employment of a large body of laborers for that purpose,—it shall be lawful for such Officer to require the head or heads of the village or villages in the vicinity, to call upon all able-bodied male persons of the laboring classes in such village or villages to co-operate in the work necessary for preventing or repairing the breach as the case may be. In the absence of the said Officer, it shall be lawful for the Tehsildar of the talook to make such requisition in his stead. And if neither the said Officer nor the Tehsildar is on the spot, and the emergency is great and urgent, it shall be lawful for the head of the village in which the breach is expected to occur or has occurred, of his own motion to call upon the laborers as aforesaid of his own village, and, if needful, to make a requisition to the heads of the neighbouring villages to call likewise upon the laborers of their villages to co-operate in the work necessary for preventing or repairing the breach.

II. Any male person of the laboring classes, being duly called upon by the head of his village to labor as aforesaid, who shall refuse or neglect to comply with such call without any lawful excuse, shall, on conviction before a Magistrate or an Officer exercising the ordinary powers of a Magistrate, be punished with a fine which may extend to One Hundred Rupees, or with simple imprisonment which may extend to one month, or with both.

Refusal or neglect to comply with such call

III. Every person who shall be employed on such work under such requisition shall be paid for his labor by day at the highest rate paid in the neighbourhood for similar work, and, if he is required to work at night, at double such rate.

Rate of remuneration for laborers so employed.

IV. Payment shall be made to the laborers from the public Treasury; and if the laborers shall have been employed upon a work belonging to a private person, the amount advanced from the Treasury shall be recoverable from such person by the same means which may be lawfully used for the recovery of arrears of Land Revenue.

Mode of payment Recovery of advances from private persons.

Inhabitants of villages may be called upon for the supply of certain materials. Supplies how to be paid for Recovery of advances from private persons.

V. It shall be lawful for heads of villages, on the requisition of the Officer in charge of such works as aforesaid, or in his absence on the requisition of the Tehsildar, or, in case of emergency when neither Officer nor the Tehsildar is on the spot, of their own motion, to make requisitions upon the inhabitants of their villages for the supply of materials, to wit trees and leaves, bamboos, straw, and the like, necessary for stopping breaches in the embankments of tanks, rivers, and canals, and to seize and if necessary to cut down such articles, wherever they may be found, giving receipts for them in writing; such supplies shall be paid for from the public treasury at the highest prices for which such articles are sold in the neighbourhood, and in case damage is sustained by any person in consequence of the cutting down of any such articles, compensation shall be made for such damage, the amount of which compensation shall, in case of dispute, be determined in the same manner as amounts payable under Section IV. When the work for which such articles are used belongs to a private person, the amount advanced from the Treasury shall be recoverable from him by the same means by which arrears of Land Revenue are recoverable.

Inability of persons bound but refusing to contribute labor to a work usually executed by the joint labor of a village

VI. Whenever by local custom any work for the purpose of irrigation or drainage or connected therewith is usually executed by the joint labor of a village community, any person bound by such custom to contribute labor to such work, who neglects or refuses without reasonable cause to comply with a requisition for such customary aid made to him by the head of the village under the orders of the Tehsildar or other superior Revenue Officer, shall be liable to pay a sum equal to twice the value of the labor which he is bound to contribute. The amount so payable shall, in case of dispute, be determined summarily by a Village or District Punchayet, assembled by order of the Collector through the Village or District Moonsiff according to the rules for assembling such Punchayets prescribed in Regulations V and VII of 1816. Such amount shall be payable on demand; and, on non-payment, the same may be recovered by the same means by

which arrears of Land Revenue are recoverable. All sums paid or recovered under this Section shall be applicable to the expenses of any works for the purpose of irrigation or drainage executed for the benefit of the village communities to which the defaulters respectively belong.

ACT NO II OF 1858.

BENGAL.

1. *Port-due on sea-going vessels of three hundred maunds burden and upwards, entering Port.*

2. *No Port-due on vessels compelled by stress of weather to put back.*

3. *Port-dues may be compounded for.*

4. *The Port-dues of the several Ports shall form a common Fund.*

5. *Commencement of Act*

6. *Rates of Port-dues to be published No other Port-due to be levied.*

7. *Act to be read as part of Act XXII of 1855.*

An Act for the levy of Port dues in certain Ports in the Province of Cuttack.

WHEREAS it is necessary to fix the amount of the Port-dues to be hereafter levied and taken, in accordance with the provisions of Act XXII of 1855, in the several Ports named in the Schedule to this Act, and in any other Port situate between the North bank of the river Soobun-rookha and the South bank of the river Dhamiah in the Province of Cuttack, which may hereafter be declared by the Lieutenant-Governor of Bengal to be subject to the provisions of Act XXII of 1855 and of the Act, It is enacted as follows:—

I. A Port-due, at a rate not exceeding the rate of six annas for every one hundred maunds of burden, shall be chargeable in respect of every sea-going vessel of the burden of three hundred maunds and upwards, which shall enter any of the said Ports.

Port-due on
sea-going ves-
sels of 300
maunds burden
entering Port.

II. Provided, that no such due shall be chargeable in respect of any vessel which, having left any of the said

No Port-due
on vessels com-
pelled by stress

of weather to put
back

Ports, is compelled to re-enter such Ports, or to enter any other of the said Ports, by stress of weather, or in consequence of having sustained any damage

Port-dues may
be compounded
for

III. The owner or agent of any vessel belonging to any of the said Ports may compound for the dues chargeable in such Port or in any other of the said Ports, in respect of such vessel, by an annual payment equal to the amount of three times the rate fixed under Section I of this Act.

The Port-dues
of the several
Ports shall form
a common Fund.

IV. For the purposes of Section XLIV, Act XXII of 1855, the said several Ports shall be regarded as constituting a single Port. All sums received on account of Port-dues at any of the said Ports shall form a common Fund which shall be called the Balasore Port Fund, and shall be available for the payment of all charges incurred on account of any of the said Ports.

Commence-
ment of Act.

V. This Act shall have effect from and after the first day of May 1858, and until this Act comes into effect, Port-dues may continue to be levied at the said Ports under the rules and at the rates now in force

Rates of Port-
dues to be pub-
lished. No
other Port-due
to be levied.

VI. The local Government shall, on or before the first day of May 1858, pursuant to Section XLII, Act XXII of 1855, declare, by notification to be published in the *Calcutta Gazette*, the rate at which a Port-due shall be levied at any of the said Ports, subject to the provisions of and within the limits prescribed by this Act, and from and after the said date no Port-due shall be levied at any of the said Ports, except under the authority of Act XXII of 1855, and of this Act.

Act to be read
as part of Act
XXII of 1855.

VII. This Act shall be read with and taken as a part of Act XXII of 1855.

SCHEDULE.

Ports.

Balasore.		Sartha.
Chooramun.	| "	Soobunreekha
Lychunpore	|	Dhamrah.
Chanooa.		

ACT No. III OF 1858.

SUPREME
COURT.

1. *Part of Regulation XXV. of 1827 of the Bombay Code repealed.*

2. *Regulation relating to the arrest and confinement of State Prisoners in the three Presidencies, to be in force within Supreme Court Jurisdiction.*

3. *Powers for the better custody of State Prisoners, vested by Act XXXIV of 1850 in the Governor General in Council, may be exercised by the Governors in Council of Port St. George and Bombay respectively*

4. *Arrests, &c, made before the passing of this Act legalized.*

5. *Removal of State Prisoners from one place of confinement to another.*

An Act to amend the Law relating to the arrest and detention of State Prisoners.

WHEREAS doubts have been entertained, whether State Prisoners confined under Regulation II. 1819 of the Madras Code, or Regulation XXV. 1827 of the Bombay Code, can be lawfully detained in any fortress, jail, or other place within the local limits of the jurisdiction of the Supreme Courts of Judicature at Madras and Bombay respectively; and it is expedient that such doubts be removed, and that the powers of the said Regulations and of Regulation III 1818 of the Bengal Code be extended; It is enacted as follows:—

I. So much of Clause I Section I of Regulation XXV, 1827, of the Bombay Code as provides—that, with reference to the individual, the apprehension and confinement therein referred to shall not be in breach of British Law—is repealed; except so far as the said provision applies to European British subjects. ●

Part of Regu-
lation XXV. of 1827
of the Bombay
Code repealed.

II. The provisions of Regulation III 1818 of the Bengal Code, Regulation II., 1819 of the Madras Code, and Regulation XXV., 1827 of the Bombay Code as altered by Section I of this Act, relating to the arrest and confinement of persons as State Prisoners, shall be in force within the local limits of the jurisdiction of the Supreme Courts of Ju-

Regulations re-
lating to the ar-
rest and con-
finement of State
Prisoners in the
three Presiden-
cies, to be in
force within
Supreme Court
jurisdiction.

Power for custody of State Prisoners, created by Act XXXIV, 1850, may be exercised by the Governors in Council of Fort St. George and Bombay.

III. All powers for the better custody of State Prisoners, which by virtue of Act XXXIV of 1850 are vested in the Governor General in Council, shall be possessed and may be exercised by the Governor in Council of Fort St. George and the Governor in Council of Bombay respectively, for the better custody of State Prisoners arrested within their respective Presidencies.

Arrests, &c., made before the passing of this Act legalized.

IV. Any person arrested as a State Prisoner before the passing of this Act, or now confined as a State Prisoner by the order or under the warrant of the Governor General in Council, or of the Governor General in Council of Fort St. George, or of the Governor in Council of Bombay respectively, shall be deemed to have been lawfully confined.

Removal of State Prisoners from one place of confinement to another.

V. The Governor General in Council may order the removal of any State Prisoner, confined under the provisions of any of the said Regulations as amended and extended by this Act, from any fortress, jail, or place in which he may be confined within either of the said Presidencies, to any other fortress, jail, or place of confinement within the territories in the possession and under the government of the East India Company.

ACT No. IV of 1858.

EXPIRED.

ACT No. V. OF 1858.

Repealed by Act XVII. 1860.

ACT No. VI OF 1858.

EXPIRED.

ACT No. VII OF 1858.

MADRAS.

1. *Port-dues on sea-going vessels of 20 tons and upwards, other than Dhoonies and Country vessels, entering Port. Port-dues on Dhoonies and Country vessels.*
2. *Port-dues to be chargeable only once in sixty days in respect of the same vessel.*
3. *Port-due on vessels leaving Port within seven days without discharging or taking in cargo.*
4. *Port-due on vessels entering Port in ballast.*
5. *Scale of Fees for measuring vessels.*
6. *Commencement of Act.*
7. *Rates of Port-dues and Fees to be published. No other Port-dues or Fees to be levied.*
8. *Act to be read as part of Act XXII of 1855.*

An Act for the levy of Port-dues and Fees at Ports within the Presidency of Fort Saint George.

WHEREAS it is necessary to fix the amount of the Port-dues and Fees to be hereafter levied and taken, in accordance with the provisions of Act XXII of 1855, in the several Ports named in the Schedule to this Act, being Ports within the Presidency of Fort Saint George; It is enacted as follows:—

I. Port-dues, at rates not exceeding the rates contained in the Schedule to this Act, shall be chargeable in respect of every sea-going vessel of the burden of twenty tons and upwards, other than Dhoonies and Country vessels employed in the coasting trade, which shall enter any of the said Ports. Port-dues shall be chargeable in respect of Dhoonies and Country vessels employed in the coasting trade, at rates equal to one-half the rates chargeable in respect of other vessels.

II. Provided that no such dues as aforesaid shall be chargeable at any of the said Ports oftener than once in sixty days in respect of the same vessel.

III.* Vessels entering any of the said Ports, and leaving such Port within seven days without discharging or taking in any cargo or passenger therein, shall be charged with one-half only of the Port-due which would otherwise be chargeable.

Port-dues on sea-going vessels of 20 tons, other than Dhoonies and Country vessels, entering Port. Port-dues on Dhoonies and Country vessels.

Port-dues to be chargeable only once in 60 days of the same vessel.

Port-due on vessels leaving Port within 7 days without discharging or taking in cargo.

* This Section has been modified by Act XIX, 1860, Sec. 4.

Port-due on
vessels entering
in ballast

IV Vessels entering any of the said Ports in ballast shall be charged with three-fourths only of the Port-due which would otherwise be chargeable

Scale of fees for
measuring ves-
sels

V In any of the said Ports, a Fee according to the scale hereinafter mentioned may be charged for measuring any vessel (that is to say)—

Under 50 tons	Rs 7
50 tons and under 100 tons	11
100 tons and under 150 tons	15
150 tons and under 200 tons	19
200 tons and under 250 tons	23
250 tons and under 300 tons	27
300 tons and upwards	30

• Commence-
ment of Act

VI This Act shall commence and have effect from and after the first day of May 1858 and until this Act comes into effect Port dues and Fees may continue to be levied at the said Ports under the rules and at the rates now in force

Rates of Port-
dues and Fees to
be published
None other to be
levied

VII The local Government shall, on or before the first day of May 1858 pursuant to Section XLII, Act XXII of 1855 declare by notification to be published in the *Port Saint George Gazette*, the rate at which Port dues and Fees shall be levied in the said Ports subject to the provisions of and within the limits prescribed by this Act, and from and after the said date, no Port due or Fee shall be levied at any of the said Ports except under the authority of Act XXII of 1855 and of this Act

Act to be read
as part of Act
XXII of 1855

VIII This Act shall be read with and taken as a part of Act XXII of 1855

SCHEDULE

Ports	Maximum Rate
Milhas	3 Annas for every ton of burden
Tuticorin	3 , ditto ditto
Cochin	3 , ditto ditto.

SCHEDULE—(Continued).

<i>Ports.</i>	<i>Maximum Rate.</i>			
Cochin	... 2	Annas for every ton of burden.		
Bimlipatam	... 1	„	ditto	ditto.
Vizagapatam	... 1	„	ditto	ditto.
Masulipatam	... 1	„	ditto	ditto.
Cuddalore	... 1	„	ditto	ditto.
Tranquebar	... 1	„	ditto	ditto.
Negapatam	... 1	„	ditto	ditto.
Calicut	... 1	„	ditto	ditto.
Tellicherry	... 1	„	ditto	ditto.
Cannanore	... 1	„	ditto	ditto.
Mangalore	... 1	„	ditto	ditto.

ACT No. VIII OF 1858.

BOMBAY.

1. *Port-due on sea-going vessels of ten tons and upwards entering Port.*
2. *No Port-due on vessels compelled by stress of weather to re-enter Port.*
3. *Port-dues to be chargeable only once in three months in respect of the same vessel.*
4. *Vessels entering the Port in ballast.*
5. *Port-due on Steamers.*
6. *Fees for certain services.*
7. *Commencement of Act.*
8. *Rates of Port-dues and Fees to be published. No other Port-dues or Fees to be levied.*
9. *Act to be read as part of Act XXII of 1855.*

An Act for the levy of Port-dues and Fees in the Port of Kurrachee.

WHEREAS it is necessary to fix the amount of the Port-dues and Fees to be hereafter levied and taken in the Port of Kurrachee, in accordance with the provisions of Act XXII of 1855; It is enacted as follows:—

I. A Port-due, at a rate not exceeding the rate of four annas for every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards (except fishing boats) which shall enter the said Port.

Port-due on
sea-going vessels
of ten tons enter-
ing Port.

No Port-due on vessels compelled by stress of weather to put back.

II. Provided, that no such due shall be chargeable in respect of any vessel which, having left the Port, is compelled to re-enter it by stress of weather, or in consequence of having sustained any damage.

Port-dues to be chargeable only once in three months.

III. The Port-due chargeable under this Act shall not be chargeable oftener than once in three calendar months in respect of the same vessel.

Vessels entering the Port in ballast

IV. Vessels entering the Port in ballast shall be charged with three-fourths of the Port-due which would otherwise be chargeable.

Port-due Steamers.

V. Tug Steamers and River Steamers, belonging to the said Port, shall be hable to the Port-due specified in Section I of this Act; and the said due shall be chargeable in respect of every such Steamer once between the 1st day of January and the 30th day of June, and once between the 1st day of July and the 31st day of December in each year. The provisions of Section XLVI, Act XXII of 1855 shall not be applicable to such Steamers.

Fees for certain services.

VI. Within the said Port, Fees may be charged for the following services at rates not exceeding those hereinafter specified, namely,

Removing from one part of the Port to another ...Rs.	25
Removing from one mooring to another at the request of the agent or master „	50
Hooking „	16
Measuring... .. „	30

Commencement of Act.

VII. This Act shall have effect from and after the first day of May 1858, and until this Act comes into effect, Port-dues and Fees may continue to be levied at the said Port under the rules and at the rates now in force.

Rates of Port-dues and Fees to be published No other Port-dues or Fees to be levied.

VIII. The Local Government shall, on or before the first day of May 1858, pursuant to Section XLII, Act XXII of 1855, declare, by notification to be published in the *Bombay Gazette*, the rates at which Port-dues and Fees shall be levied at the said Port, subject to the provisions of and within the limits prescribed by this Act; and from and after

the said date no Port-due or Fee shall be levied at the said Port, except under the authority of Act XXII of 1855 and of this Act.

IX. This Act shall be read with and taken as a part of Act XXII of 1855.

Act to be read
as part of Act
XXII of 1855.

ACT NO IX OF 1858.

BOMBAY.

1. *Port-dues on sea-going vessels of ten tons and upwards entering Port.*

2. *Rate of Port due on vessels compelled by stress of weather to enter Port*

3. *No Port-due on vessels compelled by stress of weather to put back.*

4. *No vessels to pay Port-due at same Port oftener than once a month.*

5. *The Port-dues of the several Ports shall form a common Fund.*

6. *Commencement of Act.*

7. *Rates of Port-dues to be published. No other Port-due to be levied.*

8. *Act to be read as part of Act XXII of 1855.*

An Act for the levy of Port dues in certain Ports within the limits of the Gulf of Cambay.

WHEREAS it is necessary to fix the amount of the Port-dues to be hereafter levied and taken, in accordance with the provisions of Act XXII of 1855, in the Ports named in the Schedule to this Act, being Ports within the limits of the Gulf of Cambay; It is enacted as follows :—

I. Port-dues, at a rate not exceeding the rate of two annas for every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards which shall enter any of the said Ports.

Port-dues on
sea-going vessels
of ten tons enter-
ing Port.

II. When any vessel enters any of the said Ports, being driven in by stress of weather, or in consequence of having sustained any damage, or for any other reason, but does not discharge or take in any cargo or passenger therein (with the exception of such unshipment and reshipment as

Rate of Port-due
on vessels com-
pelled by stress
of weather to en-
ter Port.

may be necessary for the purpose of repair)—the Port-due chargeable in respect of such vessel shall be at a rate equal to one-half the rate chargeable in respect of other vessels.

No Port-due on vessels compelled by stress of weather to put back

III. Provided that, when any vessel having left any of the said Ports is compelled to re-enter such Port, or to enter any other of the said Ports, by stress of weather, or in consequence of having sustained any damage, no Port-due shall be chargeable in respect of such vessel.

No vessels to pay Port-due at same Port oftener than once a month

IV. No vessel shall be required to pay at the same Port any Port-due chargeable under this Act oftener than once in the same calendar month.

The Port-dues of the several Ports shall form a common Fund

V For the purposes of Section XLIV, Act XXII of 1855, the said several Ports shall be regarded as constituting a single Port. All sums received on account of Port-dues at any of the said Ports shall form a common Fund, which shall be called the Cambay Ports Fund, and shall be available for the payment of all such expenses as are described in the said Section, incurred on account of any of the said Ports, and for the construction and maintenance of Light-Houses within the limits of the Gulf of Cambay.

Commencement of Act

VI This Act shall commence and have effect from and after the 1st day of May 1858, and until this Act comes into effect, Port-dues may continue to be levied at the said Ports under the rules and at the rates now in force.

Rates of Port-dues to be published. No other Port-due to be levied.

VII. The local Government shall, on or before the 1st day of May 1858, pursuant to Section XLII, Act XXII of 1855, declare, by notification to be published in the *Bombay Gazette*, the rate at which Port-dues shall be levied in the said Ports, subject to the provisions of and within the limits prescribed by this Act; and from and after the said date, no Port-due shall be levied at any of the said Ports, except under the authority of Act XXII of 1855 and of this Act.

Act to be read as part of Act XXII of 1855.

VIII. This Act shall be read with and taken as a part of Act XXII of 1855.

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SCHEDULE.

|            |             |
|------------|-------------|
| Surat.     | Oomersaree. |
| Bulsar.    | Blugwa.     |
| Gogo.      | Dehj        |
| Bowlearee. | Dehgaum.    |
| Khoon      | Tunkaria.   |
| Koluck.    | Broach.     |

ACT X OF 1858.

EXPIRED

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ACT XI OF 1858

EXPIRED

ACT No XII OF 1858

BENGAL

1. *Expenses of making roads to be defrayed by inhabitants.*
  2. *A tax to be imposed on carriages, horses, &c.*
  3. *Exemptions.*
  4. *Tenant-Governor may appoint Collector of tax.*
  5. *Ownership for any number of days in a quarter constitutes liability to the tax for a whole quarter.*
  6. *Exemption of carriages under repair.*
  7. *Collector may compound with livery stable-keepers.*
  8. *Carriages and horses let for hire to residents in the suburbs liable to the tax.*
  9. *Registry and numbering of carriages for hire.*
  10. *Penalty for not registering.*
  11. *List of persons liable to tax to be prepared.*
  12. *Returns may be required for purpose of making list.*
  13. *Power to summon persons liable to tax.*
  14. *Appeal against assessment may be made to Magistrate.*
- Proviso.*
15. *Magistrate's decision final.*
  16. *Bill to be presented.*
  17. *Notice of demand.*
  18. *Inventory and notice of sale.*
  19. *Sale. Fees.*

20. *Collector may sue instead, or on failure, of distress.*

21. *Estimate of probable expense of making and repairing roads, to be prepared annually, and published. If estimate of expense exceed estimated produce of carriage and horse-tax, excess how to be levied. Proviso.*

22. *Collections and fines to be paid to Roads Fund. Appropriation of Fund. No payment to be made out of the fund for the repair of certain roads*

23. *Statement of expenses incurred and of receipts and disbursements of Fund to be published annually.*

An Act for raising funds for making and repairing roads in the Suburbs of Calcutta and the Station of Howrah.

WHEREAS considerable sums are expended annually by Government for making and repairing roads in the suburbs of Calcutta and the station of Howrah : and whereas it is just and expedient that the expenses, or a reasonable proportion thereof, should be defrayed by the inhabitants of the said suburbs and station in the same manner as the expense of making and repairing roads in the towns of Calcutta is defrayed by the inhabitants of the said Town : and whereas a tax has been imposed upon carriages and horses kept within the said Town ; and it is expedient that a similar tax should be imposed upon carriages and horses kept within the said suburbs and station : It is enacted as follows :—

Expense of making roads to be defrayed by inhabitants.

I. The sums required for making and repairing roads within the limits of the said suburbs and station, except as hereinafter otherwise provided, shall be contributed by the inhabitants of the said suburbs and station, and shall be recovered in the manner hereinafter provided.

A tax to be imposed on carriages, horses, &c.

II. A tax shall be imposed upon all carriages, horses, ponies, and mules kept within the limits of the said suburbs and station, as those limits are defined in Act XXI of 1857, at the rates specified in the annexed Schedule ; and shall be payable quarterly by the owners or persons having charge of the same.

Exemptions.

III. Provided that the carriages and animals hereinafter mentioned shall be exempt from the tax, namely,

Gun carriages, ordnance carts and waggons.

Cavalry horses of mounted Police.

Horses belonging to Officers doing regimental duty at the Presidency or in the said suburbs or station, at the rate of one horse for each Officer.

Carriages and animals kept for sale and not used for any other purpose, if kept by *bond-fide* dealers in such carriages or animals.

IV. The Lieutenant-Governor of Bengal may appoint such person as he shall deem fit to be Collector of the carriage and horse-tax in the said suburbs and in the said station.

Lieutenant-Governor may appoint Collector of tax.

V. Every person who may have owned or had charge of any carriage or animal kept within the said suburbs or station for any number of days in any quarter, shall be liable to the whole tax for that quarter.

Ownership for any number of days constitutes liability for a whole quarter.

VI. If a carriage shall have been under repair at a carriage-maker's for the whole period contained in any quarter, no tax shall be leviable in respect of such carriage for that quarter.

Exemption of carriages under repair.

VII. The Collector, at his discretion, may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons, in lieu of the rates specified in the Schedule.

Collector may compound with livery stable-keepers.

VIII. Carriages and horses, let out for hire and kept for the time being in premises situated within the said suburbs or station, although owned by livery stable-keepers or others not residing within the limits of the said suburbs or station, shall be subject to the tax ; and the sums to be charged for such carriages and horses shall be recoverable from the persons in whose premises they are for the time being kept.

Carriages and horses let for hire to residents in the suburbs liable to the tax.

IX. Every carriage of the description rated in the Schedule at one Rupee and eight annas, kept within the

Registry and numbering of carriages for hire.

said suburbs or station and let out for hire, shall be registered in the Office of the Collector, and shall bear, in such manner as the Collector shall direct, the number of such registration. The registration shall be made and the number assigned annually upon such day in each year as the Collector shall appoint. Any person becoming possessed, within the year, of any such carriage which has not been registered, may obtain registration on application to the Collector at his office. When any registered carriage is transferred within the year, it shall be registered anew in the name of the person to whom it has been transferred. A fee of four annas shall be paid for each registration.

Penalty for  
not registering.

X. Whosoever keeps any such carriage, required to be registered by the provisions of the last preceding Section, without being so registered, shall, on conviction before a Magistrate, be liable to a fine not exceeding Ten Rupees, and the Collector or any officer duly authorized by him may seize or cause to be seized any such carriage (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods) together with the horses or other animals drawing the same, and may deliver them over to the Police; and all Police Officers are hereby required, on the application of the Collector or his officer as aforesaid, to seize and detain the same. If the carriage as aforesaid be not claimed, or if the fine be not paid within ten days, such carriage, together with the animals seized with it, may be sold by auction by order of the Magistrate, and the proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale, and the surplus (if any), if not claimed by the owner within a further period of twenty days, shall be paid to the Collector.

List of persons  
liable to tax to  
be prepared.

XI. The Collector shall from time to time cause to be prepared and entered in distinct columns in a book to be kept at his office, and to be open to the inspection of any person interested therein, a list of the persons liable to the payment of the tax, a description of the carriages and

animals in respect of which they are liable, and the amount of the tax assessed thereon.

XII. In order to enable the Collector to make such list, the Collector or any officer authorized by him may send to all persons supposed to be liable to the payment of the tax a Schedule, to be filled up with such information respecting the carriages and animals kept by them as the Collector may judge necessary for the assessment of the tax. The Schedule shall be filled up in writing, and signed and dated, and returned to the office of the Collector by every person to whom it is sent, whether or not liable to the payment of the tax; and whoever refuses, neglects, or omits duly to fill up and return such Schedule within one week from the receipt thereof, or knowingly gives therein any incorrect or false return, shall be liable, on conviction before a Magistrate, to a penalty not exceeding Two Hundred Rupees.

Returns may be required for purpose of making list.

XIII. The Magistrate on the report of the Collector may, if he think proper, summon any person supposed to be liable to the payment of the tax, or any servant of such person, to appear before the Collector: and the Collector may examine such person or his servant as to the number and description of the carriages and horses in respect of which such person is liable to be assessed. If the person summoned shall, without lawful excuse, fail to appear in pursuance of the summons, or shall refuse to answer any lawful question of the Collector, or knowingly give an incorrect answer, he shall be liable, on conviction before a Magistrate, to a penalty not exceeding Two Hundred Rupees.

Power to summon persons liable to tax.

XIV. Any person who may dispute his liability for any assessment made under the foregoing provisions of this Act or the amount of any such assessment, may appeal to the Magistrate. Provided, that such appeal shall be commenced within ten days after the receipt by such person of a bill for the sum claimed from him in respect of such assessment.

Appeal against assessment may be made to Magistrate within 10 days.

XV. The decision of the Magistrate upon every such appeal shall be final and conclusive; and no person shall be

Magistrate's decision final.



entitled to contest any assessment made under the foregoing provisions of this Act, in any other manner than by appeal to the Magistrate as hereinbefore provided.

Bill to be presented.

XVI. When any sum is due on account of the said tax, the Collector shall cause to be presented to the person liable to the payment thereof a bill for the amount, which shall also contain a statement of the period and a description of the carriages and animals for which the charge is made, together with a notice of the time within which an appeal may be preferred.

Notice of demand.

XVII. If the bill is not paid by the person liable to pay the same within five days from the presentation thereof, the Collector may cause to be served upon such person a notice of demand in the form (A) contained in the Schedule to this Act, or to the like effect; and if such person shall not, within five days from the service of such notice of demand, pay the sum due or show sufficient cause for non-payment of the same to the satisfaction of the Collector, and if no appeal shall have been preferred, such sum with all costs may be levied by distress and sale of the goods and chattels of the defaulter under a warrant in the form (B) in the Schedule, or to the like effect, to be issued for that purpose by the Collector.

Inventory and notice of sale.

XVIII. The Officer charged with the execution of the warrant of distress shall make an inventory of the goods and chattels seized under any such warrant, and shall at the same time give a notice in writing in the form (C) contained in the Schedule annexed to this Act, to the person in possession thereof at the time of the seizure, that the said goods and chattels will be sold as therein mentioned.

Sale. Fees.

XIX. If the arrear is not paid with costs, or the warrant is not discharged or suspended by the Collector, the goods and chattels seized shall be sold under the orders of the Collector, who shall apply the proceeds or such part thereof as may be necessary in discharge of the said arrears and costs; and the surplus (if any) shall be returned on demand to the

- person in possession of the goods and chattels at the time of the seizure. The fees payable upon distrainments under this Act shall be such as are set forth in the Table of Fees (D) in the said Schedule.

XX. Instead of proceeding by distress and sale, or in case of failure to realize by distress the whole or part of any sum due in respect of the tax, the Collector may sue the person liable for the same in any Court of competent jurisdiction.

Collector may sue instead, or on failure of distress

XXI. Previously to the first day of May of each year, an estimate shall be prepared of the amount required during the year for the purpose of making and repairing roads in the said suburbs and in the said station respectively; and such estimate, when sanctioned by the Lieutenant-Governor of Bengal, shall be published in the *Official Gazette* for general information. The Governor General of India in Council, on the report of the Lieutenant-Governor, shall determine whether any and (if any) what proportion of the said estimate shall be paid out of the public Revenues. If, after deducting such proportion (if any), the said estimate shall exceed the sum which the carriage and horse-tax is estimated to produce, with the addition of such further sums as may be assigned by the Lieutenant-Governor for the said purpose out of the Ferry Fund, or any other public fund, such excess shall be added to the amount of the assessment or rate to be levied in the said suburbs and in the said station under Act XX of 1856, and such additional assessment or rate shall be made and recovered according to the provisions of that Act. Provided that the amount levied by an assessment or rate under this Section shall not in any case exceed a sum equal to one-half of the amount levied under the said Act XX of 1856 for the purposes of that Act.

Estimate of probable expense of making and repairing roads, to be prepared annually, and published. If estimate exceed estimated produce of tax, excess how to be levied.

XXII. The proceeds of any assessment or rate made as aforesaid shall be kept distinct from the proceeds of the assessment or rate made for the purposes of the said Act XX of 1856; and such proceeds, together with all sums received by the Collector of the carriage and horse-tax, and all sums

Collections and fines to be paid to Roads Fund. Appropriation of Fund. No payment to be made for certain roads.

assigned by Government as above provided, and all fines and penalties levied under this Act, shall form a Fund which shall be called in the suburbs of Calcutta "The Suburban Roads Fund," and in the station of Howrah "The Station Roads Fund." All expenses incurred for the purpose of this Act shall be defrayed from the said Fund, and the residue shall be applied exclusively to making, repairing, and improving roads within the limits of the said suburbs and station. Provided that no payment shall be made from the said Fund for the repair of such roads or parts of roads as are hereinafter described, namely:—

In the said Suburbs—

The Barrackpore road with the Lock gate road

The road from the Cossipore gun-foundry to Dum-Dum.

The Belgatchya or Dum-Dum road

The Belhara or Diamond Harbour road, southward from the cross road to Alipore and Tollygunge

The Budge Budge road

The Gureahath or Culpoe road from the end of Old Ballygunge road

The Canal roads and the roads leading from the Canals and Salt-water lake into the Town, namely, the Balliaghatta, Narkooldangah, Ooltahunga, Gooreeparah, South Scidlah, Khooldah Nindollah, Jomngoy Biboo's, Khopagunge, and Khodghatta roads, and the Soorah road between the Balliaghatta and Narkooldangah roads.

In the said Station—

The Heoghly road northward from the point where it is crossed by the Old Benares road.

The Old Benares road westward from the same point. Or for making or maintaining any part of any other main road of communication between the Town of Calcutta and the interior of the country which may hereafter be constructed.

Statement of expenses incurred, and of receipts and disbursements of Fund to be published annually.

XXIII. The Lieutenant-Governor of Bengal shall cause statements to be prepared annually of all expenses incurred on account of making, repairing, and improving the roads of the

said suburbs and of the said station, and of all sums credited to and disbursed from the Suburban Roads Fund and the Howrah Station Roads Fund; and the said statements shall be published in the Official *Gazette* for general information.

### SCHEDULE.

|                                                                                                                                 | Rupees<br>per Quarter. |
|---------------------------------------------------------------------------------------------------------------------------------|------------------------|
| For every 4-wheel carriage on springs, drawn by two horses                                                                      | 4 8 0                  |
| For every 4-wheel carriage on springs, drawn by one horse,<br>or pony, or a pair of ponies, under thirteen hands                | ... 1 8 0              |
| For every 4-wheel carriage without springs                                                                                      | ... 1 8 0              |
| For every 2-wheel carriage on springs                                                                                           | ... 2 4 0              |
| For every 2-wheel carriage without springs, drawn by a<br>horse, pony, or mule                                                  | ... 0 12 0             |
| For every horse                                                                                                                 | ... 2 4 0              |
| For every pony under thirteen hands, or mule                                                                                    | ... 0 12 0             |
| Ponies under eleven hands and children's carriages the wheels of<br>which do not exceed twenty-four inches in diameter, exempt. |                        |

#### A.

#### NOTICE OF DEMAND.

Take notice that the Collector of the Horse and Carriage-tax for demands from you the sum of                      due from you for  
for the months of                      185 ; and that, if the sum  
due is not paid into the said Collector's office at                      ,  
or if sufficient cause for the non-payment of the sum is not shown to  
the Collector within five days from the service of this notice, a Warrant  
of Distress will be issued for the recovery of the same with costs.

(Signature of the Collector)

Date-----

#### B.

#### DISTRESS WARRANT.

*To (here insert the name of the Officer charged with the execution of the warrant.)*

Whereas                      of                      has not paid or shown sufficient cause for the non-payment of the sum of                      Rupees due for the taxes mentioned in the margin for the months of 185 , although the said sum has been duly demanded in writing from the said                      and five days have elapsed since the service of the notice of demand; This is to command you to distrain the goods and chattels of the said                      to the amount of the said sum

of                   Rupees and such further sum as may be sufficient to defray the charges of taking, keeping, and selling such distress; and if, within five days next after such distress, the said sum shall not be paid, together with such further sum as may be sufficient to defray the charges of taking and keeping such distress, to sell the said goods and chattels; and having paid and deducted out of the proceeds of the sale the said sum of                   Rupees and the charges of taking, keeping, and selling such distress, to return the surplus (if any) on demand to the person whom you shall find in possession of the said goods and chattels. If sufficient distress cannot be found of the goods and chattels of the said                   , you are to certify the same to me together with this Warrant.

(Signature of the Collector.)

C.

#### FORM OF INVENTORY AND NOTICE.

*(State particulars of goods seized.)*

Take notice that I have this day seized the goods and chattels specified in the above inventory for the sum of                   Rupees due for the taxes mentioned in the margin for the months of                   185 ; and that unless you pay into the office of the Collector of the Horse and Carriage-tax for                   the amount due together with the costs of this distress, within five days from the day of the date of this notice, the goods and chattels will be sold.

(Signature of the Collector.)

Date\_\_\_\_\_

## D.

*Table of Fees payable upon distraints under this Act.*

|         |                            | Sum distrained for. | Fee. |     |
|---------|----------------------------|---------------------|------|-----|
|         |                            |                     | Rs.  | As. |
| Under 1 | Rupce .. .. .              | ...                 | 0    | 4   |
| 1       | and under 3 Rupers .. .. . | ...                 | 0    | 8   |
| 3       | " 5 " .. .. .              | ...                 | 1    | 0   |
| 3       | " 10 " .. .. .             | ...                 | 1    | 8   |
| 10      | " 15 " .. .. .             | ...                 | 2    | 0   |
| 20      | " 25 " .. .. .             | ...                 | 3    | 0   |
| 35      | " 30 " .. .. .             | ...                 | 3    | 8   |
| 30      | " 35 " .. .. .             | ...                 | 4    | 0   |
| 35      | " 40 " .. .. .             | ...                 | 4    | 8   |
| 40      | " 45 " .. .. .             | ...                 | 5    | 0   |
| 45      | " 50 " .. .. .             | ...                 | 5    | 8   |
| 50      | " 60 " .. .. .             | ...                 | 6    | 0   |
| 60      | " 80 " .. .. .             | ...                 | 7    | 8   |
| 80      | " 100 " .. .. .            | ...                 | 9    | 0   |
| Above   | " 100 " .. .. .            | ...                 | 10   | 0   |

The above charge includes all expenses, except when peons are kept in charge of property distrained, in which case three annas must be paid daily for each man.

## ACT XIII OF 1858.

## EXPIRED.

## ACT No. XIV OF 1858.

MADRAS.

1. *General superintendence and control of the education of male Minor Wards vested in Zillah Judges.*
2. *Powers of Zillah Judges.*
3. *The right to the custody of the person of a male Minor vested in Guardian appointed by the Zillah Judge with the confirmation of Sudder Court.*
4. *Appeal from the orders of a Zillah Judge to lie to Sudder Court.*

An Act to extend the provisions of Act XXI of 1855 in the Presidency of Fort Saint George to Minors not subject to the superintendence of the Court of Wards.

WHEREAS, by Section XX Regulation V. 1804 and Section III Regulation X. 1831 of the Madras Code, the Zillah Courts, subject to the confirmation of the Sudder Adawlut, are authorized and required to appoint guardians to the Minor heirs of property of every description not subject to the jurisdiction of the Court of Wards, and by Clause 9 Section XXI of the former Regulation the guardians are required to provide for the education of their Wards in a manner suitable to their rank and condition, and whereas, by Act XXI of 1855, better provision has been made for the education of Minors subject to the superintendence of the Court of Wards, and it is expedient that the same powers which are thereby given to the Collectors and Court of Wards in respect of the Minors under their superintendence should be exercised by the Zillah Courts, subject to the control of the Sudder Adawlut, in respect of the Minors for whom they are required to appoint guardians; It is enacted as follows.—

General superintendence of the education of male Minor Wards vested in Zillah Judges.

I The general superintendence and control of the education of every male Minor, for whom a guardian has been or shall be appointed by the Zillah Court, is hereby vested in the Judge of the Zillah Court of the district within whose jurisdiction such Minor's estate is situate; or, if such Minor is possessed of immoveable property within the jurisdiction of more than one Zillah Court, in the Judge of such Court as the Sudder Adawlut shall direct.

Powers of Zillah Judges.

II. The Judge of the Zillah Court, subject to the control of the Sudder Adawlut, is hereby authorized to exercise in respect of such Minor and the guardian of such Minor all the powers and authorities which, by Sections II, III, IV, and V, Act XXI of 1855, the Collector of Revenue or the Court of Wards is authorized to exercise in respect of Minors and guardians of Minors whose property is under the management of the Court of Wards.

III. The right to the custody of the person of every male Minor, for whom a guardian is appointed by the Judge of the Zillah Court, is hereby vested in the person appointed by the Judge of the Zillah Court, with the confirmation of the Court of Sudder Adawlut, either originally or upon the removal of a former guardian, to be the guardian of such Minor.

The custody of the person of a male Minor vested in guardian appointed by the Judge.

IV. All orders and proceedings of a Judge of a Zillah Court under the provisions of this Act shall be subject to the revision of the Court of Sudder Adawlut, and every person aggrieved by any such order or proceeding may prefer an appeal therefrom to the Court of Sudder Adawlut.

Appeal from the orders of a Judge to lie to the Sudder Court.

#### ACT NO. XV OF 1858.

BOMBAY.

1. *Port-due on vessels of ten tons and upwards entering Port.*
2. *No Port-due on vessels compelled to put back.*
3. *No vessel to pay Port-due oftener than once a month.*
4. *Port-due on vessels leaving Port within seven days without breaking bulk.*
5. *Vessels entering the Port in ballast.*
6. *Commencement of Act. Rates of Port-dues to be published. No other Port-dues or fees to be levied.*
7. *Act to be read as part of Act XXII of 1855.*

An Act for the levy of Port-dues in the Port of Aden.

WHEREAS it is necessary to fix the amount of the Port-dues to be hereafter levied and taken in the Port of Aden in accordance with the provisions of Act XXII of 1855 ; It is enacted as follows:—

I. A Port-due, at a rate not exceeding the rate of one anna for every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards (except fishing boats) which shall enter the said Port.

Port-due on sea-going vessels entering the Port.

II. Provided, that no such due shall be chargeable in respect of any vessel which, having left the Port, is compelled to re-enter it by stress of weather, or in consequence of having sustained any damage.

No Port-due on vessels compelled to put back.



Vessel to pay Port dues only once a month.

III. The Port-due chargeable under this Act shall not be chargeable oftener than once in the same calendar month in respect of the same vessel.

Vessels leaving Port within 7 days without breaking bulk.

IV. Vessels entering the Port, and leaving the same within seven days, without discharging or taking in any cargo or passenger therein, shall be charged with one-half only of the Port-due which would otherwise be chargeable.

Vessels entering the Port in ballast.

V. Vessels entering the Port in ballast shall be charged with three-fourths of the Port-due which would otherwise be chargeable.

Commencement of Act. Rates of Port-dues to be published. No other Port-dues or Fees to be levied.

VI. This Act shall commence and have effect on the first day of May 1858; and the local Government shall on or before that date, pursuant to Section XLII, Act XXII of 1855, declare, by notification to be published in the *Bombay Gazette*, the rates at which Port-dues shall be levied in the said Port, subject to the provisions of and within the limits prescribed by this Act; and from and after the said date, no Port-due or fee shall be levied at the said Port, except under the authority of Act XXII of 1855 and of this Act.

Act to be read as part of Act XXII of 1855.

VII. This Act shall be read with and taken as a part of Act XXII of 1855.

MADRAS.

ACT No. XVI OF 1858.

An Act to extend Act XXV of 1855.

WHEREAS it may be found expedient to establish at Ootacamund on the Neilgherry Hills a Subordinate Criminal Court constituted according to Regulation II. 1827 of the Code of Fort Saint George; It is enacted as follows:—

When the Governor in Council of Fort Saint George shall establish at Ootacamund on the Neilgherry Hills a Subordinate Court constituted according to Regulation II 1827 of the Code of Fort Saint George, the provisions of Sections I and II of Act XXV of 1855 shall apply to commitments made by such Court; and it shall be lawful for the Judge of such Court to exercise, by appointment of the

Government of Fort Saint George, all the powers of a Joint Magistrate.

ACT NO. XVII OF 1858

**BOMBAY.**

1. *Laws repealed.*
2. *Commencement of Act.*

An Act to repeal the Laws relating to the levy of Light dues at Ports within the limits of the Gulf of Cambay

WHEREAS provision has been made by law for raising a Fund by the levy of Port-dues in certain Ports within the limits of the Gulf of Cambay, which Fund will be available as well for the construction and maintenance of Light-houses within the said limits, as for expenses incurred on account of any of the said Ports; and it is therefore no longer necessary to levy Light-dues at any Ports within the said limits; It is enacted as follows :—

I. Regulation VI. 1831 of the Bombay Code and Act I of 1836 are hereby repealed.

II. This Act shall commence and have effect from and after the 1st day of May 1858

ACT NO. XVIII OF 1858.

**MADRAS.**

1. *Sections XVI and XXIV Act XXII of 1855 to be applicable to certain Ports. Recovery of penalties and expenses.*
2. *Consent of Principal Officer of Customs or other Officer necessary for discharging ballast, &c.*

An Act for the regulation of certain Ports within the Presidency of Fort St. George.

WHEREAS it is expedient to provide for the safety of vessels and the convenience of traffic in ports within the Presidency of Fort St. George declared under Section XXIV Act VI of 1844 to be Ports for the landing and shipment of merchandize, but to which the general provisions of Act XXII of 1855 are not suitable; It is enacted as follows :—

I. The provisions contained in Sections XVI and XXIV of Act XXII of 1855 shall be applicable to the Ports men-

tioned in the Schedule to the Act annexed, being Ports declared by the Governor in Council of Fort St. George under Section XXIV Act VI of 1844, to be Ports for the landing and shipment of merchandise; and may be enforced by any Magistrate to whose ordinary jurisdiction any such Port is subject: and any penalties imposed by such Magistrate, and any expenses incurred by his order under the said provisions, shall be recoverable respectively in the manner provided in Sections LV and LVII of the said Act XXII of 1855.

II. In any of the said Ports, the consent referred to in Section XXIV of the said Act XXII of 1855 may be given by the principal Officer of Customs at such Port, or by any other officer in that behalf appointed by Government.

## SCHEDULE.

| DISTRICTS.  | PORTS.            | DISTRICTS. | PORTS.              |
|-------------|-------------------|------------|---------------------|
| Gunjam      | { Ganjam.         | Guntoor    | { Puteh Moyale.     |
|             | { Monsoorcottah.  |            | { Mootoopully.      |
|             | { Sonnapore.      |            | { Ching Ganjam.     |
|             | { Barwah.         |            | { Sholagam.         |
|             | { Poondy.         |            | { Cottapatam in the |
|             | { Bauvanapaudoo.  |            | { division of       |
| Vizagapatam | { Calingapatam.   | Nellore    | { Paudurty.         |
|             | { Guddalapaudo.   |            | { Etamoorkala.      |
|             | { Conadah.        |            | { Paukala.          |
|             | { Poodeermerkah.  |            | { Rameapatam.       |
|             | { Watadah.        |            | { Toommalapentah.   |
|             | { Cotapatnam.     |            | { Joovaladinnah.    |
| Rajahmundry | { Pentacottah.    |            | { Eskapully.        |
|             | { Polaveram.      |            | { Ponapoody.        |
|             | { Woopadah.       |            | { Mypaud.           |
| Guntoor     | { Nursapoor.      |            | { Kistnapalam.      |
|             | { Bendamoorlunka. |            | { Doogaraupapatam.  |
|             | { Nezampatam.     |            | { Chennepollem.     |
|             | { Eapoorpollem.   |            | { Paumunjy.         |
|             | { Cottapaulum.    |            | { Toopelly.         |

| DISTRICTS.               | PORTS.                        | DISTRICTS.              | PORTS.            |
|--------------------------|-------------------------------|-------------------------|-------------------|
| Nellore—<br>(continued.) | Rauzpatam.                    | Madura—<br>(continued.) | Poodoopal.        |
|                          | Pandurty.                     |                         | Numbetail.        |
|                          | Goondamoola.                  |                         | Dhamoderadatam.   |
|                          | Canoopurty.                   |                         | Theethandathanum. |
|                          | Davarumpaud.                  |                         | Soonderapaudiem.  |
|                          | Elamoorkeela.                 |                         | Arsanagharry.     |
|                          | Rauzpollem.                   |                         | Cottapatnam.      |
|                          | Chaukeeharla.                 |                         | Ramasweram.       |
|                          | Cazaidoo.                     |                         | Thungacheenadum.  |
|                          | Bingalapully.                 |                         | Mundapam.         |
|                          | Vareney.                      |                         | Pillamadam.       |
|                          | Midda.                        |                         | Vadalay.          |
|                          | Naluntoor.                    |                         | Mercaypatnam.     |
|                          | Codoor.                       | Tinnevelly.             | Vypaur.           |
|                          | Edoor.                        |                         | Coilpatam.        |
| Chingleput...            | Wootcoor.                     |                         | Coolasagarapatam. |
|                          | Pumbuly.                      |                         | Cavay.            |
|                          | Cottapatam in the division of |                         | Balleapatam.      |
| South Arcot              | Cottapatam.                   | Malabar                 | Egaar.            |
|                          | Pulicat.                      |                         | Darmapatam.       |
|                          | Covelong.                     |                         | Calay, near Mahe. |
| Tanjore ...              | Porto Novo.                   |                         | Chombay.          |
|                          | Morkanum.                     |                         | Baddagherry.      |
|                          | Nagore.                       |                         | Mootangnel.       |
| Tanjore ...              | Topetorays.                   |                         | Kottah.           |
|                          | Valangany.                    |                         | Quilandy.         |
|                          | Trimulavassel.                |                         | Trecody.          |
| Tanjore ...              | Codiarpalliam.                |                         | Cudaloor.         |
|                          | Mootoopettah.                 |                         | Kapaat.           |
|                          | Adrampatam.                   |                         | Eletoor.          |
| Tanjore ...              | Ammalipatam.                  |                         | Poodiangaddy.     |
|                          | Cattoomavady.                 |                         | Molankadoo.       |
|                          | Gopaulpatam.                  |                         | Beypoor.          |
| Tanjore ...              | Davepatam.                    |                         | Tanore.           |
|                          | Hiroopaulacody.               |                         | Parparangaddy.    |
|                          | Morepunnay.                   |                         | Parroney.         |
| Madura ...               | Auttenkurray.                 |                         | Ponany.           |
|                          | Keelakurray.                  |                         | Koottay.          |
|                          | Tondy.                        |                         | Veliangode.       |
| Madura ...               | Karengaudoo.                  |                         | Audatode.         |
|                          |                               |                         | Manalaukoona.     |
|                          |                               |                         | Ch. ughat.        |

| DISTRICTS.               | PORTS.                                                                                                                                                                                                                         | DISTRICTS.              | PORTS.                                                                                                                                                                                                                 |
|--------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Malabar—<br>(continued.) | Attakooye.<br>Koorkooye.<br>Maddawye.<br>Attepoorum.<br>Moolyk.<br>Munjashwer.<br>Cassergode.<br>Coombalah.<br>Bekul.<br>Cautcutcherry.<br>Oodiaiver.<br>Pudbidry.<br>Caup.<br>Oachill.<br>Yermall.<br>Barcoor.<br>Chundapoor. | Canara—<br>(continued.) | Naikunkatta.<br>Byndoor.<br>Seeraor.<br>Butkul.<br>Sheerully.<br>Moordeshor.<br>Munky.<br>Coompta.<br>Honaver.<br>Tuddry.<br>Sedashegur.<br>Gungavally.<br>Aukola.<br>Belckerry.<br>Chendiyeh.<br>Binnagah.<br>Oodipy. |
| Canara ...               |                                                                                                                                                                                                                                |                         |                                                                                                                                                                                                                        |

## ACT NO. XIX OF 1858.

1. *After passing of Act, no document required by Regulation X. 1829 to be stamped, shall be filed, &c., unless bearing stamps authenticated as prescribed.*

2. *Authentication of stamps on law-papers mentioned in Schedule B of Regulation X. 1829.*

3. *Notification to be published of distinguishing mark on stamps issued after 6th January 1858.*

4. *Proclamation to be made requiring unused paper bearing stamps issued prior to the 6th January 1858, to be sent in for authentication.*

5. *Such unused stamped paper, if proved to have been honestly acquired, shall be authenticated by the Government Officer.*

6. *Such unused stamped paper, if not proved to have been honestly acquired, or if not sent in within prescribed time, to be detained as Government property.*

7. *Police Officer empowered to search for and seize unauthenticated stamped paper.*

8. *Interpretation.*

An Act to provide for the authentication of Stamped Paper issued from the Stamp Office in Calcutta.

WHEREAS, during the recent disturbances, a large quantity of Stamped Paper issued from the Stamp Office in Calcutta, and remaining unsold in several of the Collector's Treasuries and in the possession of divers Stamp vendors was plundered; and it is necessary to provide against the unlawful use of such Stamped Paper, and the loss which would ensue to Government from such use thereof; It is enacted as follows :—

I. After the passing of this Act, no deed, instrument or other writing specified in Schedule A Regulation X. 1829 of the Bengal Code and required by that Regulation to be stamped, and which shall bear date or shall appear to have been written after the passing of this Act, shall be filed, exhibited, or received in any Court of Justice or in any public Office, unless the stamped paper, vellum, parchment, or other material upon which such deed, instrument, or other writing is written, shall either bear such stamp, signature, or other mark as hath been or shall be prescribed by the Governor General in Council or by the Lieutenant-Governor of Bengal for the purpose of distinguishing stamps issued from the Stamp Office in Calcutta after the 6th day of January 1858, or be authenticated as having been duly purchased by having thereon the signature and official designation either of the Superintendent of Stamps in Calcutta, or of the Collector of some District, or of his Deputy or Assistant, together with the date of such signature.

No document required by Reg. X. 1829 to be stamped shall be filed, &c., unless bearing stamps authenticated as prescribed.

II. After the passing of this Act, no law-paper specified in Schedule B of the said Regulation and required by such Regulation to be stamped, shall be filed, exhibited, or received in any Court of Justice or in any public Office unless such law-paper shall either bear the stamp, signature or other mark required for distinguishing stamps issued subsequently to the said 6th day of January 1858, or be authenticated as having been duly purchased by having thereon the signature and official designation either of the

Authentication of stamps on law-papers mentioned in Schedule B of Reg. X. 1829.

Superintendent of Stamps in Calcutta, or of the Collector of some District, or of his Deputy or Assistant, together with the date of such signature.

Notification of distinguishing mark on stamps issued after 6th January 1858.

III. A notification of the stamp, signature, or other mark prescribed for distinguishing stamps issued from the Stamp Office in Calcutta after the 6th day of January 1858, shall be published in the *Calcutta Government Gazette* and in such other Gazettes as shall be published or shall circulate in any District in which stamps issued from the Stamp Office in Calcutta are used.

Unused paper bearing stamps issued prior to the 6th January 1858, to be sent in for authentication

IV. In every District in which stamps issued from the Stamps Office in Calcutta are required by the said Regulation X. 1829 to be used, a proclamation shall be issued by the Collector requiring all persons, within a time to be specified in the proclamation, not being less than one month from the date of such proclamation, to cause all unused paper, vellum, parchment, or other material stamped under the provisions of the said Regulation, which may be in their possession, not bearing the stamp, signature, or other mark required for distinguishing stamps issued after the 6th day of January 1858, and which shall not have been authenticated in the manner above required, to be sent in to, or produced at, the office of such Collector or of his Deputy or Assistant for the purpose of being authenticated or exchanged for new stamps.

Unused stamped paper, if honestly acquired, shall be authenticated

V. Every person who, within the time specified in the proclamation, or within such further time as the Collector or his Deputy or Assistant shall consider reasonable under the circumstances of any particular case, shall cause to be produced at such Office as aforesaid, any such unused stamped paper, parchment, vellum, or other material as aforesaid, and shall prove to the satisfaction of the Collector or of his Deputy or Assistant that such stamp was honestly obtained from Government and paid for, shall be entitled to have the same authenticated by such officer in manner aforesaid, or to have the same exchanged by such officer for new stamps of the same amount.

VI. Any such unused stamped paper, parchment, vellum, or other material so sent in or produced as aforesaid, which shall not either bear the stamp, signature, or other mark required for distinguishing stamps issued after the said 6th day of January 1858, or have been authenticated in manner aforesaid, and which shall not be proved to the satisfaction of the Collector or of his Deputy or Assistant to have been honestly obtained from Government and paid for, shall be detained by such officer as Government property; and any such stamped paper, parchment, vellum, or other material, which shall be found in the possession of any person, may be seized by any Magistrate or by any Officer of Police or Revenue Officer, and sent in to the Collector's office; and if such paper, parchment, vellum, or other material shall be so found after the time required for sending in the same for authentication or exchange, it may be detained as the property of Government.

Unused stamped paper, if not acquired, or not sent in time, to be detained.

VII. Any Officer of Police having power by law to search for stolen property may, subject to the provisions under which he is empowered to make such search, proceed to search houses or places in which there may be reasonable cause to suspect that there is any such stamped paper, parchment, vellum, or other material not bearing the stamp, signature, or other mark required for distinguishing stamped paper issued after the 6th day of January 1858, and not authenticated in manner aforesaid as having been duly purchased from Government, and may seize and transmit to the Collector any such stamped paper as aforesaid.

Power to search for and seize unauthenticated stamped paper.

VIII. The words "Collector" or "his Deputy or Assistant" shall be deemed to include any officer exercising the powers of a Collector or of his Deputy or Assistant respectively.

Interpretation.

ACT No. XX OF 1858.

EXPIRED.



## GENERAL.

## ACT No. XXI OF 1858.\*

1. *What shall be deemed a "Native Passenger Ship," within the meaning of this Act.*

2. *Native Passenger Ship to sail only from Ports appointed by Government.*

3. *Not to sail without having obtained a certificate.*

4. *Penalty.*

5. *Appointment of Officers to carry out this Act.*

6. *Master to give notice of day of sailing, &c.*

7. *Power to enter and inspect Ship.*

8. *Ship may be surveyed.*

9. *Officers to be satisfied before giving certificate.*

10. *Number of passengers.*

11. *List of passengers.*

12. *Ship taking additional passengers and touching at intermediate Port.*

13. *Penalty for fraudulent alteration in Ship after certificate obtained.*

14. *Information to be transmitted to ports of embarkation.*

15. *Report of Consul, &c., to be admissible in evidence.*

16. *Length of voyage to be fixed by proclamation.*

17. *Quantity of provisions and water to be shipped.*

18. *Contract by passengers for supply of their own provision*

19. *Penalty on Ships bringing excessive number of passengers from certain foreign Ports to Indian Ports.*

20. *Act not to apply to Ships of War, &c., nor to sea-going Steam Vessels conveying public Mails.*

21. *Certificates to be furnished to Coasting Steam Vessels intended to carry passengers.*

22. *Certificates to Coasting Steam Vessels how to be granted, &c.*

23. *Copy of certificate to be placed in conspicuous part of Ship.*

24. *Penalty for excess of number specified in certificate.*

25. *Penalty for proceeding without certificate.*

26. *Grant of certificate to be subject to control of Government.*

27. *Penalty on landing Passenger at a place other than that at which he has contracted to land.*

28. *Passenger's right of action preserved.*

29. *Adjudication of offences and recovery of penalties. Sum ordered to be paid, leviable by distress on Ship.*

30. *Jurisdiction.*

31. *By whom proceedings for penalties to be instituted.*

32. *Application of penalties.*

\*Sections 2—4 of Act II, 1860, are declared by that Act to be applicable to voyages under this Act.

\*

33. *Interpretation.* "Magistrate." "Local Government."  
"Master."

34. *Commencement of Act.*

An Act for the regulation of Native Passenger Ships, and of Steam Vessels intended to convey Passengers on coasting voyages.

WHEREAS abuses have occurred in the over-crowding of Ships conveying Native Passengers between ports and places within the territories in the possession and under the government of the East India Company and ports and places in the Red Sea or Persian Gulf; and whereas it is expedient to prevent such abuses, and to provide for the regulation of all Ships carrying Native Passengers as aforesaid which shall depart from or arrive at any of the ports or places within the said territories, and also for the regulation of Steam Vessels intended to carry passengers on coasting voyages, It is enacted as follows —

I Every Vessel carrying more than thirty passengers being natives of Asia or Africa, which may depart or proceed on any voyage from a port or place within the said territories to any port or place in the Red Sea or Persian Gulf, or which may arrive at any port or place within the said territories from any port or place in the Red Sea or Persian Gulf, having on board more than thirty such passengers, shall be deemed a Native Passenger Ship within the meaning of this Act.

What shall be deemed a "Native Passenger Ship."

II. No Native Passenger Ship shall depart or proceed upon any voyage to which this Act extends from any port or place within the said territories other than such ports and places as the Local Government may from time to time appoint; and after any Native Passenger Ship has departed or proceeded upon any such voyage from a port or place so to be appointed, no person whatsoever shall be received on board as a passenger, except at some other duly appointed port or place.

Native Passenger Ship to sail only from appointed Ports.

III. No Native Passenger Ship shall depart or proceed upon any such voyage from any port or place appointed

Not to sail without certificate.

under this Act, until the Master shall have obtained a certificate from an officer authorized to grant the same.

**Penalty**

IV. If any Native Passenger Ship depart or proceed upon a voyage from any port or place within the said territories, or if any person is received as a passenger on board a Native Passenger Ship in contravention of the provisions of the last two preceding Sections, the Owner or Master shall be liable to a penalty not exceeding One Hundred Rupees for every passenger conveyed on a ship unlawfully departing or proceeding on such voyage; or for every passenger unlawfully received on board; and the Ship, if found within two years in any place within the said territories, may be seized and detained by any Chief Officer of Customs until the penalties incurred under this Act have been adjudicated, and the payment thereof, with all costs, have been enforced under the provisions of Section XXIX.

**Appointment  
of Officers**

V. The Local Government shall appoint such persons as it may deem proper to exercise or perform the powers and duties conferred or imposed by this Act.

**Master to give  
notice of day of  
sailing, &c**

VI. The Master of any Native Passenger Ship sailing from any port or place appointed under this Act shall give notice to the proper Officer that the Ship is to carry Native Passengers, and of her destination, and of the proposed day of sailing; such notice shall be given not less than three days before the proposed day of sailing.

**Power to enter  
and inspect  
Ship.**

VII. After receiving such notice, the Officer aforesaid, or any person authorized by him, shall be at liberty at all times to enter and inspect the Ship and the fittings, provisions, and stores therein; and any person impeding or refusing to allow such inspection, shall be liable, on conviction, to a penalty not exceeding Five Hundred Rupees for each offence.

**Ship may be  
surveyed**

VIII. The Officer aforesaid may, if he think fit, cause the ship to be surveyed at the expense of the Master by a competent surveyor, who shall report whether the ship is, in his opinion, sea-worthy and fit for her intended voyage

IX. The Officer aforesaid shall not give his certificate, unless he shall be satisfied—

Officer  
satisfied  
points  
giving  
cate. to be  
on 4  
before  
certifi-

1. That the Ship is sea-worthy and properly manned, equipped, fitted, and ventilated; and has not on board any cargo likely, from its quality, quantity, or mode of stowage to prejudice the health or safety of the passengers.

2. That the space appropriated to the passengers in the between-decks contains at the least nine superficial and fifty-four cubical feet of space for every adult passenger on board, that is to say, for every passenger above twelve years of age, and for every two passengers between the ages of one year and twelve years.

3. That a space of four superficial feet per adult is left clear on the upper deck for the use of the passengers.

4. That provisions, fuel, and water have been placed on board, of good quality, properly packed, and sufficient to supply the passengers on board during the declared duration of the intended voyage, according to the scale hereinafter contained.

X. No such Ship shall carry any greater number of passengers than, together with the Master and crew, shall amount to the proportion of two persons for every three tons of the registered or estimated tonnage of the Ship.

Number of  
passengers

XI. The Master of any such Ship, before departing or proceeding on any such voyage from any port or place within the said territories, shall sign two lists, specifying (as accurately as may be) the names of all the passengers, and stating the number of the crew; and shall deliver them to the Officer aforesaid, who shall thereupon (after having first mustered the passengers and compared the number and names of such passengers with the lists) countersign and return to the Master one of such lists. The Master shall note in writing on such last mentioned list, and on any additional list to be made under this Act, the date and supposed cause of death of any passenger who may die on the voyage) and shall forthwith, on the arrival of the Ship at her destination or at any port in the said territories at which

List of passen-  
gers

it may be proposed to land passengers, and before any passengers are landed, produce the list, with any additions thereto made, to any person lawfully exercising Consular authority on behalf of Her Majesty at the port of arrival, if it be a Foreign Port, or to the Chief Officer of Customs, or the Officer (if any) appointed under this Act, at any port or place within the said territories at which it shall be intended to land the passengers or any of them. In case of non-compliance with any of the requirements of this Section on the part of the Master, or if any false entry be wilfully made in any such list, the Master shall be liable to a penalty not exceeding Five Hundred Rupees for each offence.

Ship taking  
additional pas-  
sengers and  
touching at in-  
termediate Port

XII. If, after the Ship shall have departed or proceeded on any such voyage, any additional passengers are taken on board at a port or place, within the said territories, appointed under this Act for the embarkation of passengers, or if such Ship shall, upon her voyage, touch or arrive at any such port, having previously received on board additional passengers at any place out of the said territories, the Master shall obtain a fresh certificate from the Officer at such port, and lists of all such additional passengers shall be made; and all the provisions hereinbefore contained in that behalf shall be applicable to any certificate to be granted or any list to be made under this Section.

Penalty for  
fraudulent alter-  
ation after certi-  
ficate obtained.

XIII. If any Master of a Ship, after having obtained a certificate under Section III or Section XII of this Act, shall fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the ship, its passengers, or other matters to which such certificate relates, he shall be liable to a penalty not exceeding Two Thousand Rupees.

Information to  
be transmitted  
to ports of em-  
barkation.

XIV. The Chief Officer of Customs, or the Officer (if any) appointed under this Act at any port or place within the said territories at which the ship shall touch or arrive, shall, with advertence to the requirements of this Act, transmit any particulars which he may deem important respecting the ship and the passengers conveyed therein, to the Officer at

the port from which the ship commenced her voyage, and also to the Officer at any other port within the said territories where the passengers or any of them embarked.

XV. In any proceeding for the adjudication of any penalty incurred under this Act, any document purporting to be a report of such particulars as are referred to in the last preceding Section, or a copy of the proceedings of any Court of Justice duly authenticated, and also any like document purporting to be made and signed by any person lawfully exercising Consular authority on behalf of Her Majesty in any Foreign Port, shall be received in evidence, if the same appears to have been officially transmitted to any Officer at or near the place where the proceeding under the Act is had

Report of Consul, &c., to be admissible in evidence

XVI. It shall be lawful for the local Government, by any proclamation to be from time to time issued for that purpose and published in the Government Gazette (if any) or in one of the public newspapers, to declare what shall be deemed, for the purposes of this Act, the duration of the voyage of any Native Passenger Ship from any port or place to any other port or place.

Length of voyage to be fixed by proclamation.

XVII. Every Native Passenger Ship, at the time of departure from the port or place at which passengers shall be embarked under this Act, shall have on board good and wholesome provisions for the use and consumption of the passengers, over and above the victualling of the crew, to the amount or in the proportion following, that is to say, a supply of water to the amount of five gallons to every week of the computed voyage for every passenger on board, such water being carried in tanks or sweet casks, and a supply of rice, flour, oatmeal, or bread stuffs to the amount of seven pounds weight to every week of the computed voyage for every such passenger; Provided always, that, when any such Ship shall be destined to call at a port or place in the course of her voyage for the purpose of filling up her water-casks, a supply of water at the rate before mentioned for every week of an average voyage to such port or place of calling shall be deemed to be a compliance with this Act. The provision of

Quantity of provisions and water to be shipped.

this Section regarding food shall be deemed to have been complied with in any case where it shall appear that, by the special authority of the local Government, any other articles of food were substituted for the articles above enumerated as being equivalent thereto.

Contract by passengers for supply of their own provisions.

XVIII. The requirements of this Act respecting the supply of provisions for passengers shall not, except as to the supply of water, be applicable to any passenger who may have contracted to furnish his own provisions.

Penalty on Ships bringing excessive number of passengers from certain foreign Ports.

XIX. If any Ship, bringing passengers from any port or place in the Red Sea or Persian Gulf to any port or place within the said territories, shall have on board a greater number of passengers or persons than in the proportion prescribed by this Act, the Master of such Ship shall, in addition to any other penalty which he may have incurred under the provisions of this Act, be liable, on conviction, to a penalty not exceeding Fifty Rupees for each person in excess of such proportion.

Act not to apply to Ships of War, &c Or to sea-going Steam Vessels conveying public Mails.

XX. Nothing in the foregoing provisions of this Act contained shall apply to any Ship of War or Transport belonging to or in the service of Her Majesty or of the East India Company, or to any Ship of War belonging to any Foreign Prince or State, or to any Ship under contract with the Government of any European State, or to any sea-going Steam Vessel regularly employed in the conveyance of the public Mails under a contract.

Certificates to be furnished to Coasting Passenger Steam Vessels.

XXI. Steam vessels which may be intended to carry passengers on coasting voyages from or to any port or place whatsoever within the said territories, shall, before proceeding on such voyages, be furnished with certificates to be granted in the manner hereinafter provided.

Certificates to Coasting Steam Vessels how to be granted

XXII. Every such certificate shall be granted at the discretion of an Officer authorized to grant the same by the local Government, and shall remain in force for the period herein specified, unless sooner revoked. The Officer so authorized shall not grant such certificate, or suffer the same to

remain in force, unless he is satisfied, by inspection or survey (to be made at least twice in each year at the expense of the Master or Owner, and upon payment of a fee not exceeding twenty Rupees), that such Steam Vessel is sea-worthy and properly equipped with boats and otherwise, and that the engines and machinery are in a fit state to enable her to proceed on her voyage. The certificate shall state the limits (if any) within which the Vessel is to ply, and the number of Native Passengers which the Vessel is permitted to carry : such number to be subject to such conditions and variations according to the time of year, the nature of the voyage, and the cargo carried, as the case requires.

XXIII. The Owner or Master of any such Steam Vessel shall put up in a conspicuous part of the ship, so as to be visible to persons on board the same, a copy of the said certificate, and shall cause it to be continued in such position so long as the certificate remains in force ; and in default, such Owner or Master shall for each offence be liable to a fine not exceeding Two Hundred Rupees.

Copy of certificate to be placed in conspicuous part of Ship

XXIV. If such Steam Vessel has on board thereof any number of passengers which, having regard to the time of the year and other circumstances, is greater than the number allowed by the certificate, the Owner or Master shall be liable to a fine not exceeding Twenty Rupees for every passenger over and above the number allowed by the certificate

Penalty for excess of number specified in certificate

XXV. If any such Steam Vessel shall proceed on any such voyage without such certificate as aforesaid, the Owner or Master shall be liable to a fine not exceeding Five Hundred Rupees.

Penalty for proceeding without certificate

XXVI. In the grant or revocation of any certificate whatsoever under this Act, the Officer granting the same shall be subject to the control of the Local Government, or of any intermediate authority which that Government may appoint.

Grant of certificate to be subject to control of Government.

XXVII. If any Native passenger in any ship shall be landed at any port or place other than the port or place at

Penalty on landing passenger at a place



other than con-  
tracted for

which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall, for each offence, be liable to a penalty not exceeding Two Hundred Rupees

Passenger's  
right of action  
preserved.

XXVIII. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native Passenger, or to any other person, in respect of the breach or non-performance of any contract made with the Master or Owner of the ship or his agent.

Adjudication  
of offences and  
recovery of pe-  
nalties. If not  
paid to be levi-  
able by distress  
on ship

XXIX. All offences against this Act shall be punishable in a summary manner by a Magistrate. If the person directed to pay any penalty is the Master or Owner of a ship, and the same is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel

Jurisdiction.

XXX. For the purpose of the adjudication of penalties under this Act, any offence shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

By whom pro-  
ceedings for pe-  
nalties to be in-  
stituted.

XXXI. The penalties to which Masters and Owners of ships are liable by this Act, shall be enforced only by information laid at the instance of the officers appointed to grant certificates under this Act; or at any port or place where there is no such officer, by the Chief Officer of Customs.

Application of  
penalties

XXXII. Any Magistrate imposing any penalties under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage, which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings.

Interpretation.  
"Magistrate"  
"Local Govern-

XXXIII. The word "Magistrate" in this Act shall include a Magistrate of Police appointed under Act XIII of

1856, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and at the Port of Aden the Political Resident and his Assistant.

The words "Local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the said territories where the port or place in question is situate.

The word "Master" shall include every person having command or charge of a Ship or Steam Vessel.

XXXIV. This Act shall commence and take effect from and after the 1st day of August 1858.

Commence-  
ment of Act.

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ACT No. XXII OF 1858.

EXPIRED.

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ACT No. XXIII OF 1858.

MADRAS.

1. *Act repealed.*

2. *Kurnool placed under the operation of the general Laws.*

An Act for bringing the District of Kurnool under the Laws of the Presidency of Fort Saint George.

WHEREAS it is expedient that the District of Kurnool should be brought under the laws of the Presidency of Fort Saint George ; It is enacted as follows:—

I. Act X of 1843 is hereby repealed.

II. It is hereby enacted that, from and after the first day of July 1858, the District of Kurnool shall be subject to the Laws in force for the administration of Justice and collection of the Revenue in the several Zillahs and Collectorates under the Presidency of Fort Saint George.

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 ACT No. XXIV OF 1858.

 EXPIRED.
 

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BOMBA'

## ACT No XXV OF 1858

- 1 *Repeal of laws*
- \*2. *Present assessment to remain in force until revised*
- 3 *Act XXV of 1856 incorporated* *Constructions*
4. *Number, appointment, and election of Commissioners*
5. *Commissioners incorporated*
- 6 *Tenure of office by Commissioners.*
- 7 *Meetings of Commissioners.*
- 8 *Pay of Commissioners*
9. *Commissioners not to be under control of the Justices*
- Proviso.*
10. *Rate on houses and lands*
11. *Exemptions*
12. *Government buildings*
- 13 *Power to exempt small holdings*
14. *Remission on account of vacant houses.*
15. *Tax on vehicles and animals*
- 16 *Exemption of certain vehicles and animals*
- 17 *What constitutes liability to the tax for a whole quarter*
- Proviso.*
- 18 *Carriages under repair.*
19. *Commissioners may compound with livery stable-keepers & others.*
20. *Registry and numbering of hired carriages.*
- 21 *Penalty for not registering*
- 22 *Levy of Town-Duties.*
23. *Town-Duties by whom to be levied and collected.*
24. *Town-Duties to be paid into the Treasury.*
25. *Power to make rules for keeping accounts.*
- 26 *Municipal Fund.*
27. *Charges previously incurred for Municipal purposes to be borne by present Municipal Fund.*
28. *Management and application of Municipal Fund.*
29. *Contribution to the annual expenses of the Police.*
30. *Annual payment on account of Water-works.*
31. *Annual payment on account of Drainage-works.*

32. *Recovery of expenses incurred by the Commissioners in the execution of certain works required by Act XIV of 1856 to be executed by the owners of property.*

An Act for appointing Municipal Commissioners and for raising a Fund for Municipal purposes in the Town of Bombay.

WHEREAS it is expedient to make better provision for the appointment of Commissioners for the Conservancy and improvement of the Town of Bombay, and for assessing and levying rates and taxes for Municipal purposes in the said Town; and whereas it is also expedient to provide additional funds for improving the Drainage of the said Town, and for repaying the expense incurred by Government in the construction of works for supplying water to the said Town; It is enacted as follows.—

I. So much of the 158th Section of the Act of Parliament 33 Geo III, Cap 52 as remains in force; so much of Chapters II, IV, and VI of Regulation XIX 1827 of the Bombay Code as remains in force, except Section XIII of Chapter II, and so much of Act VII of 1836 as relates to the repealed portions of those Chapters; Regulations XXXII 1827 of the same Code; and Act XI of 1845—are hereby repealed, except so far as they repeal any other Act, and except as to any assessment or tax which shall be unpaid, and as to any proceeding for the recovery of the same which shall have been commenced before this Act comes into operation.

Repeal of laws.

II. The assessment on houses, buildings, and grounds, made under the said Statute and the said Act XI of 1845, shall, until revised and altered under the provisions of this Act, remain in full force and effect, and shall be levied and recovered as a rate payable under this Act

Present assessment to remain in force until revised

III. Act XXV of 1856, entitled “An Act to comprise in one Act the provisions necessary for the assessment and collection of Municipal rates and taxes in the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales’ Island, Singapore, and Malacca,” is incorporated with this Act. In construing the said

Act XXV of 1856 incorporated with this Act

Act, the expression "the Special Act" shall mean this Act; the expression "the Commissioners" shall mean the Municipal Commissioners constituted by this Act; and the expression "the Local Government" shall mean the Governor of Bombay in Council.

Number, ap-  
pointment, and  
election of Com-  
missioners

IV. There shall be three Commissioners for the purposes of this Act, and for the Conservancy and improvement of the Town of Bombay under Act XIV of 1856. The Governor in Council shall appoint one of the Commissioners, who shall be President of the Board of Commissioners. The other two Commissioners shall be elected by Her Majesty's Justices of the Peace in Sessions assembled.

Commissioners  
incorporated

V The Commissioners shall be styled "The Municipal Commissioners for the Town of Bombay," and shall by such name be a body corporate and have perpetual succession and a common seal, and by such name shall sue and be sued.

Tenure of of-  
fice by Commis-  
sioners

VI The Commissioner appointed by the Governor in Council shall be removable at his pleasure. The two elected Commissioners shall remain in office for a period of three years, and at the end of every three years successively a like new election shall take place, but the same persons or either of them may be re-elected; and in the event of a vacancy occurring, by death or otherwise, within the said period, the Justices in Sessions assembled shall, as soon as convenient, elect a person to supply the vacancy until the next triennial election.

Meetings of  
Commissioners.

VII. The Municipal Commissioners shall meet once at least in every week. The attendance of two shall be necessary to constitute a meeting. At a meeting of two, on questions on which they are divided in opinion, if the President be one of them, he shall have a casting vote; otherwise the question shall be reserved for the decision of a future meeting.

Pay of Com-  
missioners.

VIII The Municipal Commissioners may receive such allowances out of the funds to be raised under this Act as

shall be, from time to time, fixed by the Governor in Council. Provided, that the allowances for any Commissioner shall not exceed the rate of ten thousand Rupees a year, if the Commissioner holds no other appointment or occupation ; or the rate of four thousand Rupees a year, if he holds any\* other appointment or occupation.

ment "  
"Master."

IX. In the execution of this Act and the incorporated Act, and of Act XIV of 1856, the Commissioners shall not be subject to any check or control on the part of the Justices. Provided that, in respect of any work for the execution of which the consent or sanction of the local Government is necessary under any of the said Acts, and in respect of the regulation of the salaries of officers appointed under any of the said Acts, the Commissioners shall, before making application to Government, submit a plan of the work or a Schedule of the salaries for the approval of the Justices. When any such plan or Schedule is disapproved by the Justices, the Commissioners, if they see fit, may refer the matter for the decision of the Governor in Council.

Commission-  
ers not to be  
under control of  
the Justices

Proviso.

X.\* An annual rate of five per centum of the annual value shall be imposed upon houses, buildings, and lands in the said Town, and shall be payable by the owners thereof in quarterly instalments. Provided, that it shall be lawful for the Governor in Council, on the representation of the Justices, to fix, from time to time, in lieu of the said annual rate of five per centum, any higher annual rate not exceeding seven and a half per centum. Any rate so fixed shall be published in the Government Gazette before the commencement of the year in which such rate is to have effect

Rate on houses  
and lands.

XI. Religious edifices, and buildings devoted to charitable purposes, and temporary buildings, occupied by European and Native Officers and Soldiers in the service of Her Majesty or of the East India Company doing Regimental duty in the Garrison of Bombay, shall not be liable to the rate.

Exemptions.

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\* This Section has been modified by Act XX, 1861 Sec. 2.

**Government  
buildings.**

XII. Buildings owned by Government shall be exempt from the rate so long as the sum of thirteen thousand Rupees, now annually paid by Government in lieu thereof, shall continue to be so paid.

**Power to  
exempt small  
holdings.**

XIII. The Commissioners may exempt from assessment any house, building, or land, the annual value whereof is less than twenty-four Rupees, if the same be the sole rateable property of the owner.

**Remission on  
account of va-  
cant houses.**

XIV. When any house shall have been vacant for sixty consecutive days during any year, the Commissioners shall remit so much of the rate for that year as may be proportionate to the number of days the said house may have remained unoccupied ; provided, that the owner of such house or his agent, shall have given notice in writing of the vacancy thereof to the Commissioners, and that the amount of rate to be remitted shall be calculated from the date of the delivery of such notice.

**Tax on vehi-  
cles and animals.**

XV. A tax shall be imposed on all carriages, carts, hackeries, horses, ponies, and mules kept within the said Town, and upon all carts and hackeries plying for hire within the said Town or let for hire and used within the said Town and kept at any place beyond the limits thereof, at the following rates ; and shall be payable quarterly by the owners or persons having charge of the same :—

*Rates per quarter.*

Rs. As.

|                                                                                                                                                        |   |    |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|
| On every four-wheeled carriage on springs, ...                                                                                                         | 3 | 0  |
| On every two-wheeled carriage on springs, except native hackeries, ...                                                                                 | 2 | 4  |
| On every native hackery on springs used for riding in, and drawn by bullocks, ...                                                                      | 7 | 8  |
| On every native hackery not on springs, ...                                                                                                            | 4 | 8  |
| On every labor-cart and labor-hackery not on springs, and drawn by bullocks, and having wheels with tires of the breadth of 2½ inches and upwards, ... | 0 | 12 |

*Rates per Quarter.**Rs. As.*

On every labor-cart and labor-hackery not on springs, and drawn by bullocks, and having wheels with tires less in breadth than  $2\frac{1}{2}$  inches, ... 2 4

On every horse, pony, or mule of the height of 12 hands or upwards, ... 7 8

XVI. Provided that the several vehicles and animals hereinafter mentioned shall be exempt from the tax, namely :  
—Gun-Waggon.

Cavalry Horses, and Horses of the mounted Police.

Horses belonging to Officers doing Regimental duty at the Presidency, at the rate of one horse for each Officer.

Conservancy Carts, Horses, Ponies, and Mules belonging to the Commissioners.

Vehicles and animals kept for sale and not used for any other purpose, if kept by *bonâ fide* dealers in such vehicles and animals.

XVII. Every person who may have owned or had charge of any vehicle or animal kept within the said Town for any portion of a quarter shall be liable to the whole tax for that quarter. Provided that, in case any such person has kept or had charge of any vehicle or animal for a period less than thirty days, the Commissioners may remit any portion of the tax payable in respect of such vehicle or animal not exceeding two-thirds of the tax for the quarter.

What constitutes liability to the tax for a whole quarter.

XVIII. If a carriage shall have been under repair at a carriage-maker's for the whole period contained in any quarter, no tax shall be leviable in respect of such carriage for that quarter.

Carriages under repair.

XIX. The Commissioners, at their discretion, may compound, for any period not exceeding one year, with livery stable-keepers and other persons keeping carriages and horses for hire, for a certain sum to be paid for the carriages and horses so kept by such persons, in lieu of the taxes specified in Section XV.

Commissioners may compound with livery stable-keepers & others



**Registry and  
numbering  
of  
hired carriages.**

XX Every carriage kept and let out for hire within the said Town ; and every cart and hackery kept and used within the said Town ; and every cart and hackery plying for hire within the said Town, or let out for hire and used within the said Town, and kept at any place beyond the limits thereof—shall be registered in the office of the Commissioners with the name and residence of the owner ; and shall bear, in such manner as the Commissioners shall direct, the number of such registration. The registration shall be made and the numbers assigned annually, upon such day in each year as the Commissioners shall appoint. Any person becoming possessed within the year of any such carriage, cart, or hackery, which has not been registered, may obtain registration on application to the Commissioners at their office. When any registered carriage, cart, or hackery is transferred within the year, it shall be registered anew in the name of the person to whom it has been transferred. A fee of four annas shall be paid for each registration.

**Penalty for  
not registering.**

XXI. Whoever keeps any carriage, cart, or hackery required to be registered by the provisions of the last preceding Section, without being so registered, shall, on conviction before a Magistrate be liable to a fine not exceeding Ten Rupees, and the Commissioners, or any officer duly authorized by them, may seize or cause to be seized any such carriage, cart, or hackery (provided the same be not employed at the time of seizure in the conveyance of any passengers or goods) together with the horses, bullocks, or other animals drawing the same and may deliver them over to the Police ; and all Police Officers are hereby required, on the application of the Commissioners or their Officer as aforesaid, to seize and detain the same. If the carriage or other vehicle as aforesaid be not claimed, or if the fine be not paid within ten days, such carriage or vehicle, together with the animals seized with it, may be sold by auction by order of the Magistrate, and the proceeds applied to the payment of the fine and all costs and charges incurred on account of the detention and sale ; and the surplus (if any), if not claimed by the owner within a further period

of twenty days, shall be paid to the Municipal Commissioners.

XXII. Duties, at the rates specified in the Schedule annexed to this Act, shall be levied in respect of the several things therein mentioned, when imported from any place into the Town of Bombay and intended for consumption or use therein. The said Duties shall be called the Town-Duties, and shall be leviable in addition to any Customs Duties prescribed by law.

**Levy of Town-Duties.**

XXIII. The said Town-Duties shall be levied and collected by and under the management of the Commissioner of Customs of Bombay and his subordinate officers, who shall have the same powers for collecting and enforcing payment of the said Town-Duties as they now have or shall have in respect of Customs-Duties ; and such Commissioner and his subordinate officers shall have the same privileges and be subject to the same liabilities in respect of anything done by them in collecting and enforcing payment of the said Town-Duties under this Act, as they now have or are subject to under the provisions of any Act in force relating to the said Customs.

**Town-Duties by whom to be levied and collected**

XXIV. All monies received by the Commissioner of Customs on account of the Town-Duties shall from time to time, after deducting the charges of collection, be paid into the General Treasury to the credit of the Municipal Commissioners.

**Town-Duties to be paid into the Treasury.**

XXV. The Governor of Bombay in Council shall have power from time to time to make rules for keeping the accounts of the said Town-Duties, and from time to time to alter or revoke the same ; and may by such rules direct what books, accounts, and statements shall be kept by the Commissioner of Customs and at the General Treasury in relation to the said Town-Duties. The Governor in Council may also from time to time fix the charges which the Commissioner of Customs shall be entitled to deduct for the necessary expenses

**Power to make rules for keeping accounts.**

of collecting the said Town-Duties and accounting for the same

**Municipal Fund**

XXVI All monies received by the Commissioners or paid to their credit by virtue of this Act or of Act XIV of 1856 or of any other Act or Regulation, and all fines and penalties imposed and levied by the Court of Petty Sessions or by any Magistrate of Police or Justice of the Peace within the said Town, and all sums of money collected on account of fees for licenses granted under Act V of 1842, or Section XIII, Chapter II, Regulation XIX 1827 of the Bombay Code, shall form a Fund which shall be called the Municipal Fund of Bombay.

**Charges previously incurred for Municipal purposes to be borne by present Municipal Fund**

XXVII All charges and liabilities duly incurred for Municipal purposes, and which would, but for the passing of this Act, be payable from the Municipal Fund as constituted under the provisions of Act XI of 1845, shall be paid from the Municipal Fund constituted under the provisions of this Act

**Management and application of Municipal Fund.**

XXVIII The Municipal Fund shall be under the direction and management of the Commissioners, who shall submit quarterly, for the information of the Justices, an account of all sums paid into, and disbursed from, the said Fund. Subject to the deductions and appropriations hereinafter mentioned the said Fund shall be applied to the purposes of this Act and the Incorporated Act and of Act XIV of 1856, and to the execution of any public works tending to the improvement of the said Town which may be sanctioned by the Governor in Council, although not expressly mentioned in any of the said Acts

**Contribution to the annual expenses of the Police**

XXIX From and out of the Municipal Fund, an annual sum, bearing the same proportion to the annual expenses of the Police of the Town of Bombay as the sum of forty-five thousand Rupees bore to the annual expenses of the Police aforesaid (namely, one hundred and sixty-seven thousand five hundred and fifty-three Rupees) at the period

of the passing of Act XI of 1845, shall in the first instance be deducted and paid by equal monthly instalments and carried to the credit of the Governor in Council in the General Treasury, to be applied by the Governor in Council for and on account of the expenses of the Police of the Town of Bombay.

XXX. The Commissioners shall pay to the Governor in Council out of the Municipal Fund an annual sum not less than one hundred and seventy-five thousand Rupees, on account of the expense which has been or may be incurred by Government in the construction of the works called the Vohar Water-works; and such annual payment shall continue to be made until the whole of the expense so incurred (except such portion thereof, if any, as shall be defrayed by Government out of the public revenue), with interest thereon at the rate of four per centum per annum, shall have been re-paid. The Commissioners shall also pay to the Governor in Council in each year such further sum as shall be equal to the cost of the maintenance of the said works during the preceding year.

**Annual payment on account of Water-works.**

XXXI. The Commissioners shall, (until such a complete system of sewerage and drainage within the said Town as shall be agreed upon between the Governor in Council and the Bench of Justices, shall have been completed and all the expenses thereof defrayed, and all monies borrowed for the payment of such expenses and interest thereon shall have been re-paid), set apart for the purposes above-mentioned, out of the Municipal Fund, an annual sum not less than two hundred and fifty thousand Rupees. If such system of sewerage and drainage has been completed, and all the expenses thereof defrayed, and all monies borrowed for the payment of such expenses and interest thereon have been re-paid, before the expenses incurred by Government for the construction of the said Vohar Water-works shall have been re-paid, the said annual sum of two hundred and fifty thousand Rupees shall be added to the sum of one hundred and

**Annual payment on account of Drainage-works.**

seventy-five thousand Rupees directed by the preceding Section to be appropriated annually to the re-payment of the expenses of the said works.

Recovery of expenses incurred by the Commissioners in the execution of certain works required by Act XIV of 1856 to be executed by the owners of property.

XXXII. Whenever the Commissioners shall have incurred any expenses in the execution of any of the works which, under Sections XXIV, LI, and LIII of the said Act XIV of 1856, the owners of any premises, houses, or buildings are required to execute, the Commissioners may either recover the amount of such expenses in the manner therein provided, or, if they think fit, may take engagements from the said owners for the quarterly payment of such sums as will be sufficient to defray the whole amount of the said expenses, with interest thereon at the rate of six per centum per annum, within a period not exceeding five years; and such sums, when due, may be recovered by the same process by which rates may be recovered under the Incorporated Act.

### SCHEDULE.

*Rates of Town-Duty to be charged upon the following articles imported into Bombay.*

| NAMES OF ARTICLES.                                                                                                     | RATE. |     |            |
|------------------------------------------------------------------------------------------------------------------------|-------|-----|------------|
|                                                                                                                        | Rs.   | As. | P.         |
| Cows, Calves, Oxen and Buffaloes, ... .. each                                                                          | 0     | 8   | 0          |
| Sheep, Lambs, Goats, and Kids, ... .. „                                                                                | 0     | 2   | 0          |
| Ghee, ... .. per maund                                                                                                 | 0     | 6   | 2          |
| Grain of all sorts, ... .. per candy                                                                                   | 0     | 4   | 0          |
| Chunam, on value to be fixed from time to time by the Commissioner of Customs, with the sanction of Government, ... .. | 5     | 0   | 0 per cent |
| Timber, on market-value at the time of import, ... ..                                                                  | 5     | 0   | 0 per cent |
| Wood, Fire-wood, ... .. per candy                                                                                      | 0     | 2   | 0          |

Act No XXVI of 1858,

EXPIRED

Act No XXVII of 1858,

EXPIRED

Act No XXVIII of 1858

MADRAS

- 1 *Additional charge on the hire of boats carrying cargo or goods*
- 2 *No cargo to be conveyed in the boat be accompanied by a Police Officer*
- 3 *Penalties*
- 4 *Owner to make a weekly return of trips*
- 5 *Penalty for neglecting to make return, and for making false return*
- 6 *Boat owner to pay weekly to the Commissioner of Police the sums charged under this Act*
- 7 *Moneys received under this Act to be paid into the General Treasury*
- 8 *Conviction to be quashed on merits only Term of conviction*
- 9 *Act not to apply to boats carrying only mails or passengers with their baggage*
- 10 *Powers Act, of the Commissioner of Police and the Police Force within the Port of Madras*
- 11 *When this Act shall take effect*

An Act for the maintenance of a Police Force for the Port of Madras

WHEREAS it is expedient to make further provision for the security of the traffic between the shore and the shipping in the Port of Madras, by increasing the Police Force, and whereas it is just and expedient that the said traffic should contribute towards the expenses and maintenance of the said Force, It is enacted as follows —

I To meet the expense of such an increase to the Police Force, established under the provisions of Act XIII of 1856

Additional  
charge on the  
hire of boats car-

rying cargo or  
goods.

*(for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca)* as may be necessary for the purposes of this Act, the sum of three annas shall be charged and taken by the owner of every boat employed to convey cargo or goods to or from any ship or vessel in the Port of Madras, in addition to the hire payable under Act IV of 1842 *(for the better management of boats and catamarans in the Madras Roads and for the amendment of certain Harbour Regulations)*.

No cargo to be  
conveyed, un-  
less boat be ac-  
companied by a  
Police Officer

II. No cargo or goods of any description shall be conveyed in any boat to or from any ship or vessel in the Port of Madras, unless accompanied by an officer of the Police Force, and it shall be the duty of the Commissioner of Police to provide every such boat with an officer of the Police Force for this purpose.

Penalties.

III. The owner of any boat, and the tindal and boatmen for the time being employed in any boat, in which any cargo or goods shall be conveyed to or from any ship or vessel in the Port of Madras without having an officer of the said Force on board of such boat, and every boat owner, tindal, and boatman, who shall either hinder any such officer from accompanying any such boat or shall obstruct him in the performance of his duty when in any such boat, shall, on conviction before a Magistrate, be liable as follows: every boat-owner for the first offence to a penalty not exceeding Fifty Rupees, and for a second or any subsequent offence to a penalty not exceeding One Hundred Rupees; every tindal for the first offence to corporal punishment not exceeding twenty stripes of a rattan, and for a second or any subsequent offence to corporal punishment not exceeding twenty-five stripes of a rattan; and every boatman for the first offence to corporal punishment not exceeding fifteen stripes of a rattan, and for a second or any subsequent offence to corporal punishment not exceeding twenty stripes of a rattan.

IV. Every boat-owner shall on every Monday make to the Commissioner of Police, or to such other person as the said Commissioner of Police shall appoint to receive the same, a return in writing, signed by such boat-owner, of the number of trips made by each of his boats on each day during the preceding week.

Owner to make a weekly return of trips.

V. Every boat-owner, who shall neglect to make such return as in the next preceding Section specified, shall, on conviction before a Magistrate, be liable for a first offence to a penalty not exceeding Fifty Rupees, and for a second or any subsequent offence to a penalty not exceeding One Hundred Rupees; and every boat-owner who shall make a false return shall be liable to a penalty not exceeding Three Hundred Rupees, and to the forfeiture of all licenses which he may hold under the provisions of Act IV of 1842.

Penalty for neglecting to make return, and for making false return.

VI. Every boat-owner shall on every Monday pay to the said Commissioner of Police, or to such other person as the said Commissioner of Police may appoint to receive the same, the said sum of three annas for every trip made by any boat belonging to him, employed in conveying cargo or goods, according to the weekly return to be made by him as hereinbefore directed; and in default of such payment, one or more of the boats of any boat-owner making such default may be seized and sold by virtue of a warrant under the hand and seal of a Magistrate, until the amount so due by such boat-owner and the expenses of sale shall be realized, and such amount, when realized, shall be forthwith paid to the said Commissioner of Police.

Boat-owner to pay boat fees weekly to the Commissioner.

VII. All monies paid to or received by the said Commissioner of Police under this Act shall be paid by him, at least once a month, into the General Treasury of Fort Saint George.

Monies received to be paid into the General Treasury.

VIII. No conviction, order, or judgment of any Magistrate under this Act shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state on the face of the conviction, order, or

Conviction to be quashed on merits only. Form of conviction, &c.



judgment, the evidence on which it proceeds ; but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment in obedience to any writ of *certiorari* ; and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

Act not to apply to boats conveying only mails or passengers with their baggage.

IX. None of the foregoing provisions of this Act shall be taken or deemed to extend or apply to any boat which shall convey only mails or passengers with their baggage to or from any ship or vessel in the Madras roads.

Powers of the Commissioner of Police, &c., within the Port.

X. From and after the passing of this Act, it shall be lawful for the Commissioner of Police and the Members of the Police Force at Madras to exercise, within the limits of the Port of Madras as defined under the provisions of Act XXII of 1855 (*for the regulation of Ports and Port-dues*), all powers given to them respectively by Act XIII of 1856, or which may be lawfully exercised by Constables within the local limits of the jurisdiction of the Supreme Court ; and all provisions of the last mentioned Act applicable to the said Commissioner and Police Force at Madras shall apply to them respectively in the execution of the powers hereby given.

When this Act shall take effect.

XI This Act shall take effect from and after such day as shall be notified in the Official Gazette by the Governor in Council of Fort Saint George.

BENGAL.  
N. W. P.

ACT No. XXIX OF 1858.

1. *Further time allowed for instituting or prosecuting certain suits and appeals in consequence of the suspension of the sittings of the Civil Courts.*

2. *Further time allowed for prosecuting certain suits and appeals in consequence of the difficulty of access to the Courts.*

3. *Application for admission of special appeals to whom to be presented.*

4. *Stamps in what cases necessary.*

5. *Suit instituted after 10th May 1857 not to be dismissed, if the time allowed by law for its institution had expired while the sittings of the Court were suspended.*

6. *Certificate of Zillah Judge to be conclusive evidence of the suspension of the sittings of the Court, &c.\**

7. *Extension of Act.*

An Act for the relief of persons who, in consequence of the recent disturbances, have been prevented from instituting or prosecuting suits or appeals in the Civil Courts of the North Western Provinces within the time allowed by law.

WHEREAS, during the recent disturbances, many of the Civil Courts in the North-Western Provinces were compelled to suspend their sittings for considerable periods; and whereas, during this interval, the time allowed by law for instituting and prosecuting original suits and appeals has in many cases expired, and it is proper to provide relief for the plaintiffs and appellants in such cases; It is enacted as follows :—

1. Whenever, subsequently to the 10th May 1857, the sittings in any Civil Court in the North-Western Provinces may have been suspended in consequence of the disturbed state of the country, it shall be competent to such Court to receive and try, or to re-admit any original suit or appeal within its jurisdiction, in which the period allowed by law for instituting or prosecuting the same may have expired during the time that the sittings of such Court were so suspended, provided that the plaintiff or appellant, according as the case may be, shall present his petition of plaint or appeal, or, if the suit or appeal shall have been previously instituted but shall have abated for want of prosecution, shall make an application for the re-admission of the same within the period of three months from the date on which the principal Civil Court of original jurisdiction in the District shall issue a proclamation, copies of which shall be affixed in some conspicuous place in the several Courts and in the office of the Collector and Magistrate of the District, notifying that the Courts of the District, or such of them as it is intended to re-establish, have resumed their sittings

Further time allowed for instituting or prosecuting certain suits and appeals in consequence of suspension of sittings of the Civil Courts.

Further time  
allowed for pro-  
secuting certain  
suits and appeals  
in consequence  
of difficulty of  
access to the  
Courts

II. In like manner any Civil Court in the North-Western Provinces may receive and try, or re-admit any original suit or appeal in which the period allowed by law for instituting or prosecuting the same may have expired subsequently to the said 10th May 1857, if it shall appear to the satisfaction of such Court that the plaintiff or appellant in such suit or appeal was precluded from instituting or prosecuting it within the limited period, owing to the disturbed state of the country whereby access to such Court was rendered dangerous or difficult; Provided, that the plaintiff or appellant, according as the case may be, shall present his petition of plaint or appeal, or, if the suit or appeal shall have been previously instituted but shall have abated for want of prosecution, shall make an application for the re-admission of the same within three months from the passing of this Act, or from the time when the cause above stated shall cease to exist.

Application  
for admission of  
special appeals  
to whom to be  
presented

III. If the application be for the admission of a special appeal, the appellant may present his application either in the Sudder Court, or in the Court from whose decision the appeal is made for transmission to the Sudder Court.

Stamps in  
what cases ne-  
cessary.

IV. The petition of plaint or appeal in any original suit or regular or special appeal falling within the provisions of this Act, which may be instituted, for the first time, under Section I or Section II, shall be written on stamp paper of the value prescribed for regular suits and appeals; but an application for the re-admission of an original suit or appeal, which shall have been previously instituted but shall have abated for want of prosecution, may be written on plain paper.

Suit instituted  
after 10th May  
1857 not to be  
dismissed, if the  
time allowed for  
institution ex-  
pired while the  
sittings were  
suspended

V. No original suit or appeal, which may have been instituted or re-admitted in any Civil Court in the North-Western Provinces subsequently to the said 10th May 1857, shall be liable to be dismissed, nor shall any decision passed in any such suit or appeal be reversed, on the ground that at the date of its institution the period allowed by law for the admission of the suit or appeal had expired, or that the suit

or appeal had abated for want of prosecution (according as the case may be), if, at the time the period allowed by law for instituting or prosecuting such suit or appeal expired, the sittings in the Court by which it was cognizable, or in which it was pending were suspended, or access to such Court was rendered dangerous or difficult by reason of the disturbed state of the country

VI For the purposes of this Act, the certificate of the Zillah Judge that the sittings in any Court within his jurisdiction were suspended or that access to any such Court was rendered dangerous or difficult owing to the disturbed state of the country during any particular period, shall be deemed conclusive evidence of the fact

Certificate of  
Zillah Judge  
to be conclusive  
evidence of sus-  
pension of sit-  
tings of the  
Court, &c

VII This Act may be extended by the Governor General in Council or by the executive Government of any Presidency or place to any District within the limits of their respective jurisdictions

Extension of  
Act

### Act No XXX of 1858 \*

MADRAS

1 Appointment of person, designated Receiver of Court, to administer the estate

2 Remuneration of Receiver

3 Suspension, removal, &c of Receiver

4 Receiver to represent the State in all proceedings

5 Receiver to collect sue fees, and take possession of the property

6 Receiver, selling immovable property with the sanction of the Court, may execute conveyance thereof to purchaser Effect of such conveyance

7 Upon a suit being instituted under this Act, Receiver to be subject to the orders of the Court

8 Suit for administration of estate Special directions to be given as to creditors holding mortgages or other securities

9 Accounts to be taken by the Court—of the debts, property, and mortgages

10 Creditor or mortgagee not coming in to establish claim or mortgage, to be barred from all benefit thereof

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\* This Act has been modified by Acts II & XVI, 1859

11. *Court may order a person claiming under a conveyance, executed by the Nabob under circumstances rendering the same void as against creditors, to come in and establish his claim.*

12. *Property conveyed by the Nabob for the purpose of raising money for his use may be declared part of his estate subject to bonâ fide mortgages created thereon. Mortgagees, &c., of such property to come in and establish their mortgages. Notices to be issued. Persons holding under such mortgages, who fail to come in and establish their claims, shall be barred from all benefit thereof.*

13. *No suit to be instituted against any representative of the Nabob otherwise than in accordance with this Act. Pending suits to abate.*

14. *Special application by creditor for immediate investigation of his claim by the Court.*

15. *Payments made by the Nabob in discharge of interest not to be questioned. From what period interest at the rate of 6 per cent. shall be calculated*

16. *Creditor not entitled to make special application in respect of a part only of his claims.*

17. *No assignment of such claims to be valid, if made after passing of this Act, or since the Nabob's death, unless made bonâ fide and for valuable consideration.*

18. *Persons claiming in respect of Istufa Cutcherry Bonds to be deemed creditors of the Nabob within the meaning of Section XIV of this Act.*

19. *Court, upon application, to fix a day for the investigation, and to give notice thereof to the Company's Solicitor at Madras.*

20. *Particulars of claim to be furnished to the Solicitor.*

21. *Government may, seven clear days before hearing, give notice of consent to an order for payment.*

22. *Claim to be summarily investigated by Court. Amount due how to be ascertained—in respect of money lent—in respect of goods supplied, &c. Court to order payment of amount so ascertained, with costs. Proviso.*

23. *Fees to Officers of Court.*

24. *Upon every investigation, East India Company may appear by Counsel. Claimant may appear in person, or by Counsel, or by Attorney, &c.*

25. *Amount found due with interest and costs how to be paid. Adjudication of amount to be primâ facie evidence of the debt in the administration suit.*

26. *Provision if payment be made to a creditor under the preceding Section in respect of the amount receivable by him.*

*27. No action in respect of certain things done under this Act, or before the passing thereof, if done with the sanction of Government.*

*28. No property to be taken by the Receiver out of possession of privileged persons without the order of Government.*

An Act to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic.

WHEREAS by Act 1 of 1844 it is enacted, that no writ or process shall at any time be sued forth or prosecuted against the person, goods, or property of His Highness the Nabob of the Carnatic, or of such other person as therein mentioned, unless such writ or process shall be so sued forth with the consent of the Governor in Council of Fort Saint George first had and obtained as therein mentioned; and that any writ or process which shall at any time be sued out or prosecuted against the person or goods or property of His Highness or of any such person without such consent, shall be utterly null and void: and whereas the Nabob died leaving debts and liabilities to a large amount unsatisfied, some of which were contracted by himself and some by Azcem Jah Bahadoor as Nabob Regent or Naib-i-Mooktar during the infancy of the late Nabob: and whereas it is doubtful whether the creditors of the Nabob have, without the consent of the Governor in Council of Fort Saint George, any remedy for enforcing their claims against the goods or property which belonged to the said Nabob at the time of his death; and especially, whether any part of the property left by the said late Nabob, which was of the nature of State or Public Property, is liable for the payment of such claims: and whereas the East India Company is willing to give up any right which it has to any part of such property which is in the nature of State or Public Property, and to allow the whole property, moveable and immoveable of whatever kind, left by the late Nabob, after appropriating to the payment of his debts such portion thereof as is liable to the payment thereof, to be applied towards making provision for the family and dependants of the late Nabob: and whereas the said East India Company is also willing to pay in full, to such of the

creditors as shall be willing to accept the same, in the manner herein mentioned, all such debts as shall be proved to have been fairly and justly contracted by the said Nabob or on his behalf during his infancy by the said Azeem Jah as Nabob Regent, such debts to be estimated in respect of moneys at the amounts which may be proved to have been actually advanced or paid by such creditors respectively, and in respect of goods supplied or other matters at the amount which shall be proved to have been the fair and actual value thereof at the time when such debts were incurred, together with interest on such debts at a rate not exceeding six per centum per annum, the property of the said Nabob being applied in the first instance for that purpose, but any deficiency therein being made good by the said East India Company: And whereas the said Nabob is alleged to have mortgaged and created divers liens and securities upon certain portions of his property, of which or some of which the validity and extent of operation, especially as against the creditors of the said Nabob, is doubtful and it may also be doubtful whether the same can be enforced in any of the ordinary Courts of Justice; and it is expedient that provision should be made for giving effect to the said mortgages, liens, and securities so far as the same shall have been created *bonâ fide* and for valuable consideration, and for affording a simple mode of ascertaining the rights of the parties claiming under such mortgages, liens, and securities: And whereas it is also alleged that various conveyances, deeds, and instruments have been executed by the late Nabob without valuable consideration in favor of persons, who have, under color thereof, executed or created mortgages or assignments of, or securities or liens on the property comprised therein: And whereas it is expedient that provision should be made for investigating all such claims, and for protecting the *bonâ fide* creditors of the said Nabob from the effect of any conveyances executed by the Nabob under such circumstances as rendered them void as against such creditors, and for affording a simple mode of ascertaining the rights of the parties

claiming in respect thereof as well as of parties claiming to be creditors of the Nabob : It is enacted as follows :—

I. The Governor in Council of Fort Saint George shall, immediately after the passing of this Act, appoint such person as he may think fit to act under the orders of the Supreme Court of Judicature at Madras in the administration of the property of whatever nature left by the said late Nabob. The person so appointed shall be designated "The Receiver of the Carnatic property," and shall have power to collect and take possession of all such property, and shall hold the same according to the provisions of this Act ; and shall give such security (if any) as the said Governor in Council may require.

**Appointment  
of Receiver of  
Carnatic prop-  
erty.**

II. The said Receiver shall be entitled to receive such commission, not exceeding five per centum upon the amount or value of the property collected by and distributed under the the provisions of this Act, as the said Governor in Council shall appoint, which commission shall be charged to the estate.

**Remuneration  
of Receiver.**

III. The Governor in Council shall have full power to suspend or remove any person appointed such Receiver as aforesaid, and also from time to time to fill up any vacancy in such office which may be occasioned by death, retirement, suspension, or removal.

**Suspension, re-  
moval, &c., of  
Receiver.**

IV. Such Receiver shall represent the estate of the said late Nabob in all proceedings relating thereto under this Act or otherwise, and shall do and perform all acts in performance of his duties or office under his official designation, and in all proceedings, whether at Law or in Equity, he shall be so styled and designated ; and no proceedings in which the Receiver may be a party shall abate by reason of the death, retirement, suspension, or removal from office of any such Receiver, but the same shall be continued and carried on by his successor as if no such death, resignation, suspension, or removal had occurred.

**Receiver to re-  
present the es-  
tate in all pro-  
ceedings.**

V. The Receiver shall have full power to collect, take possession of, and get in all property, moveable or immoveable,

**Receiver to col-  
lect, sue for and  
take possession  
of the property.**



and whether of the nature of State or Public Property or not, to which the said late Nabob at the time of his death was entitled either at Law or in Equity, or which is liable either at Law or in Equity to satisfy the debts of the said Nabob; and, if necessary, to sue for and recover the same as representing the said estate of the said Nabob under this Act, and to realize by sale or otherwise the value of the said property: and he shall proceed to collect and take possession of the same with all convenient speed immediately after the passing of this Act.

Receiver selling immoveable property may execute conveyance thereof to purchaser. Effect of such conveyance.

VI. Whenever the Receiver, by the order or with the sanction of the Court, shall sell any immoveable property to which the Nabob was entitled either at Law or in Equity at the time of his death, or which is liable either at Law or in Equity to satisfy the debts of the said late Nabob, he shall execute a conveyance thereof to the purchaser; and such conveyance shall be valid and effectual and give a good title as against the heirs of the said Nabob, and all persons claiming under them, and also as against all persons claiming under the said Nabob by virtue of any conveyance or instrument declared by the said Court to be void as against the creditors of the said Nabob, or by virtue of any mortgage or security, the benefit of which has been barred under the provisions of this Act.

Upon a suit being instituted under this Act, Receiver to be subject to the orders of the Court.

VII. Upon a suit being instituted as hereinafter mentioned, the said Receiver shall be deemed subject to the orders of the said Court, and so far as such orders shall not extend, to the general practice of the said Court, in the same manner as any other Receiver specially appointed by the said Court, except that he shall not be called upon by the said Court to give security.

Suit for administration of estate. Special directions to be given as creditors holding to mortgages or other securities.

VIII. It shall be lawful for any creditor or person interested in the proper administration of the estate and effects of the said Nabob, to apply for and obtain in a summary way, in the manner provided by Act VI of 1854, upon a summons to be served upon the said Receiver,

an order for the administration of the estate and effects of the said Nabob; and such order, in addition to the ordinary directions contained in the usual order for the administration of the moveable and immoveable estate of a deceased Mahomedan, shall direct that all creditors, who may hold any mortgage or security upon any part of the property mentioned in Section V of this Act, shall come in and prove their claims and establish their securities and the consideration for the same, or in default thereof that they shall be barred and excluded from all benefit of their said securities; and the said Court shall also by the said order give such directions as to the notices to be issued to such creditors and otherwise, and shall direct such enquiries, as to the Court shall seem fit.

IX. Upon such order being made, the Court shall take an account of all debts and liabilities which were due from the said Nabob at the time of his death, and also of all property, moveable or immoveable, and whether of the nature of State or Public Property or not, to which the said late Nabob at the time of his death was entitled either at law or in equity, or which is liable either at law or in equity to satisfy the debts of the said Nabob; and shall also determine whether any and which of the said creditors had any and what mortgage or security upon any and what portion of the property of the said Nabob, and for any and what consideration or amount, and whether such mortgage or security constituted a valid charge upon the whole, or any and what portion, of the property included therein.

X. Every creditor of the said Nabob, who shall not come in and establish his claim under and according to the said order, shall be barred from all benefit of the said claim; and all persons who may hold or claim under any mortgage or security as aforesaid, who shall fail to come in and establish the same and (if required by the Court so to do) to prove the consideration for the same under and according to such order, shall be barred from all benefit of such mortgage or security; and the said Court may order the property affected thereby to be delivered up to the said Receiver.

Accounts to be taken by the Court—of the debts, property, and mortgages.

Creditor or mortgagee not coming in to establish claim or mortgage, to be barred from all benefit thereof.

Court may order a claimant under a conveyance executed under circumstances rendering the same void as against creditors, to come in and establish his claim.

XI. In case it shall appear to the satisfaction of the Court, that there is good reason to believe that any conveyance or other instrument executed by the said late Nabob in his life time was executed under circumstances which rendered the same void as against creditors, the said Court may, at any time pending the suit, order the person or persons claiming under such conveyance or instrument to come in and establish his claim under the same ; and in default of compliance with the said order, the said Court may declare the said conveyance or instrument to be void as against the creditors of the said Nabob, and may order the property thereby conveyed to be delivered up to the said Receiver.

Property conveyed by the Nabob for the purpose of raising money for his use, may be declared part of his estate, subject to bona fide mortgages. Mortgagees, &c, to come in and establish their mortgages, or to be barred from all benefit thereof.

XII. In case it shall appear to the satisfaction of the Court, that there is good reason to believe that any property was conveyed by the said Nabob in his lifetime to any person or persons in order that he or they might raise money thereon for the use of the said Nabob, the said Court may declare that, subject to any mortgages or securities which may have been *bona fide* created thereon, the said property is part of the estate of the said Nabob and shall be administered accordingly, and may also order all persons who may hold or claim under any mortgage or security executed by the person or persons to whom the said property was so conveyed by the said Nabob to come in and prove their claims and establish their securities and the consideration for the same, or in default thereof that they shall be barred and excluded from all benefit of their said securities ; and the said Court shall also by the said order give such directions as to the notices to be issued to such creditors and otherwise, and shall direct such enquiries as to the Court shall seem fit ; and all persons who may hold or claim under any mortgage or security executed by or on behalf of the person or persons to whom such property was conveyed as aforesaid, who shall fail to come in and establish the same and (if required by the Court so to do) to prove the consideration for the same under and according to such order, shall be barred from all benefit of such mort-

gage or security ; and the said Court may order the property affected thereby to be delivered up to the said Receiver.

XIII. No action or suit shall be commenced or prosecuted by any creditor of the said Nabob against any person as the representative of the said Nabob, otherwise than in accordance with the provisions of this Act ; and all actions and suits, which at the time of the commencement of this suit shall be pending at the suit of any such creditor against any person as representative of the said Nabob, shall abate ; the costs of such suit, if the said Court shall consider it reasonable, to be paid out of the assets of the said late Nabob.

No suit to be instituted against any representative of the Nabob otherwise than in accordance with this Act. Pending suits to abate.

XIV. \* Any person claiming to be a creditor of the said late Nabob, who, within the period of three months from the passing of this Act, shall file in the office of the Registrar of the said Supreme Court a written declaration, stating that he is willing to receive in full discharge of all his claims against the said late Nabob or any property to which the said late Nabob at the time of his death was entitled either at law or in equity, or which is liable either at law or in equity to satisfy the debts of the said Nabob, such amount as shall be ascertained by the said Supreme Court to have been justly and fairly due to him from the said late Nabob at the time of his death, or to be a charge upon such property and to remain unpaid (the amount to be estimated in respect of moneys at the amount which shall be proved to have been actually advanced to or paid for the use of the said Nabob, and in respect of goods supplied or other matters at the amount which shall be proved to have been the fair and actual value thereof at the time when such debts were incurred) together with such interest (if any) not exceeding the rate of six per centum per annum as shall be awarded by the said Court ; and that he is willing to give up any mortgage or security which he may hold upon any part of such property as aforesaid, or which shall have been charged with the said debt—

Special application by creditor for immediate investigation of his claim by the Court.

\* This Section has been modified by Act XXXVIII, 1860.

shall be entitled, upon giving up such mortgage or security to the said Receiver, to have the amount of his claim ascertained by the said Court in manner hereinafter mentioned.

Past payments in discharge of interest not to be questioned. From what period interest at the rate of 6 per cent. shall be calculated

XV. When any sum of money shall have been paid by the said Nabob in his lifetime in specific discharge of interest at a higher rate than six per centum per annum, such payment shall not be re-opened or questioned; but interest at the reduced rate of six per centum per annum (as by this Act provided) shall be calculated from the period up to which interest shall have been specifically discharged by any such payment by the said Nabob.

Creditor not to make application in respect of a part only of his claims.

XVI. No person claiming to be a creditor of the said late Nabob, or in respect of any property whatsoever to which the said late Nabob was entitled either at law or in equity or which is liable either at law or in equity to satisfy the debts of the said Nabob, shall be entitled to avail himself of the provisions of Section XIV in respect of a part only of his claims upon the said late Nabob or upon any such property as aforesaid.

No assignment of such claims to be valid, if made after passing of this Act, or since the Nabob's death unless made bona fide and for valuable consideration.

XVII. No assignment of any such claim as aforesaid upon the said late Nabob, or upon any property whatsoever to which the said late Nabob was entitled either at law or in equity or which is liable either at law or in equity to satisfy the debts of the said Nabob, shall be or be deemed to be valid or effectual, if made or executed subsequently to the date of the passing of this Act, or if made or executed since the death of the said late Nabob, unless proved to have been made *bonâ fide* and for a valuable consideration, the proof whereof shall lie upon the person claiming under such assignment.

Persons claiming in respect of Istufa Cutcherry Bonds to be deemed creditors.

XVIII. Every person claiming to be a creditor of the said late Nabob in respect of any security, commonly called and known as an Istufa Cutcherry Bond, issued by order of the said late Nabob in discharge of or connected with the debts of Moomtauzool Moolk 'Bahadoor, otherwise called Ghoolam Moortaza Khan Bahadoor, shall be deemed a credi-

tor of the Nabob within the meaning of Section XIV of this Act.

XIX. The said Court, upon the application of such creditor, shall appoint a day for ascertaining the amount of his debt, and notice of the day so appointed shall forthwith be given by the applicant to the Solicitor of the East India Company at Madras. The day so appointed shall not be less than twenty-one days from the time of the application.

**Court to fix a day for the investigation, and applicant to give notice thereof to the Company's Solicitor.**

XX. At the time of giving such notice, the creditor shall also furnish to the said Solicitor full particulars of his claim. If the particulars so furnished are insufficient, the said Court or a Judge thereof may make an order for further particulars. In case any such order be made, the Court shall not proceed to investigate the claim until fourteen days from the time when sufficient particulars have been furnished, and if necessary shall appoint a further day for the hearing.

**Particulars of claim to be furnished.**

XXI. At any time not less than seven days before the hearing, the Government may give notice to the claimant that it is willing to consent to an order for the payment of an amount to be specified in the notice in full discharge of what is justly and fairly due.

**Government may, seven clear days before hearing, give notice of consent to an order for payment.**

XXII. \* Upon the day so fixed, or upon any other day to which the Court may think fit to postpone the investigation, the Court, after proof of the service of the notice required by Section XIX of this Act, shall proceed to ascertain and determine in a summary way what amount is justly and fairly due from the estate of the said Nabob at the time of his death to the claimant, whether the debt be payable by instalments or not, and whether or not the day or days fixed for the payment thereof shall have arrived. In ascertaining such amount, the said Court shall not allow to any person claiming to be a creditor in respect of money lent or advanced, any larger sum than the amount which shall be proved to have been actually advanced to or for the said late Nabob,

**Claim to be summarily investigated by Court. Amount due how to be ascertained—in respect of money lent—in respect of goods supplied, &c.**

\* This Section has been modified by Act XXXVIII, 1860.

or, in the case of such Istufa Cutcherry Bonds as aforesaid, to or for the said Ghoolam Moortaza Khan Bahadoor, together with simple interest thereon not exceeding the rate of six per centum per annum (to be calculated up to the date of the order for payment), notwithstanding any higher rate of interest may have been agreed to be paid; and shall not allow to any person claiming to be a creditor in respect of goods supplied or of any other matters, any larger sum than the amount which shall be proved to have been the fair and actual value thereof at the time when such debt was incurred by or on behalf of the said late Nabob, or, in the case of such Istufa Cutcherry Bonds as aforesaid, by or on behalf of the said Ghoolam Moortaza Khan Bahadoor, without reference to the price or sum which may have been agreed to be paid for or in respect thereof, together with simple interest thereon not exceeding the rate aforesaid, if the Court shall consider that the claimant is entitled to recover interest. The said Court shall issue an order for the payment of the amount so ascertained to be due, together with the costs of proving the debt if it shall think fit to award costs. Provided that, if the amount so ascertained to be due shall not exceed the amount specified in the notice (if any, given under Section XXI, the Court shall not award costs to the claimant.

**Fees to Officers  
of Court.**

XXIII. For the issue of subpoenas or other process, for preparing orders of payment, or for any other business connected with the ascertaining the amount of any debt or claim under the last preceding Section, the officers of the said Court shall be entitled to charge the like fees as would be chargeable in an ordinary suit in the said Court for such debt or claim for business of a like nature, or such other fees as the Court with the sanction of the Governor in Council shall appoint in that behalf.

**East India  
Company may  
appear by Coun-  
sel. Claimant  
may appear, in  
person, or by  
Counsel, or by  
Attorney, &c.**

XXIV. Upon every investigation under Section XXII of this Act, the East India Company may appear and be heard by Counsel; and the claimant may appear in

person or by Counsel or, if the Court shall think fit to allow the same, by Attorney or any other Agent.

XXV. The amount ascertained by the Court to be due to the claimant upon the investigation under Section XXII, together with such interest and costs (if any) as shall be awarded by the Court, shall be paid to the claimant by the said Receiver within ten days after a copy of the order of the said Court shall have been served upon him. In case no sufficient assets belonging to the estate of the said late Nabob shall be in the hands of the Receiver to enable him to pay such amount, the same shall be forthwith paid out of the Public Treasury of the East India Company, and the said Company shall be entitled to be re-paid by the Receiver out of any assets which may afterwards come to his hands. The judgment of the Court as to the amount due to such creditor as aforesaid for principal and interest shall, in taking an account of the debts and liabilities and of the estate and effects of the said Nabob in such administration suit as aforesaid, be treated as *prima facie* evidence that a debt to that amount was due to such creditor.

Amount found due with interest and costs how to be paid. Adjudication of amount to be *prima facie* evidence of the debt in the administration suit.

XXVI. If it shall appear that the amount paid out of the assets of the said Nabob to any such creditor or to the East India Company under the provisions of the last preceding Section, exceeds the amount which such creditor, independently of the provisions of this Act, would have been entitled to receive out of the assets of the estate, the difference between the amount so paid and the amount which would have been so receivable shall be made good by the East India Company, and shall be paid to the Receiver for the benefit of the persons interested in the estate.

Provision in case of payment to a creditor, under the preceding Section in respect of the amount receivable by him.

XXVII. No action or suit shall be brought against the East India Company or any person for any thing done under the provisions of this Act, or for or by reason of any act, reasonable or proper for the protection of any property, moveable or immoveable, and whether of the nature of State or Public Property or not, to which the said late Nabob at

No action in respect of certain things done under this Act, or before the passing thereof if done with the sanction of Government.



the time of his death was entitled either at Law or in Equity, or which is liable either at Law or in Equity to satisfy the debts of the said Nabob, or for realizing the assets thereof, which may have been done before the passing of this Act by any person under the orders or with the sanction of the said Governor in Council.

No property to be taken by the Receiver out of possession or privileged persons without the order of Government

XXVIII. No property shall be taken by the said Receiver out of the possession of any person mentioned in the last last published in the Government Gazette at Madras of persons entitled to privileges under the provisions of Act I of 1814, without the previous order of the said Governor in Council

#### BENGAL

#### ACT NO XXXI OF 1858

1. *In what cases the revenue assessed upon alluvial land may be added to the jumma of the original estate. In what cases there shall be a separate settlement*

2. *Rights of under-tenants in alluvial lands*

3. *Separate settlements of alluvial lands heretofore made Proviso.*

An Act to make further provisions for the settlement of land gained by alluvion in the Presidency of Fort William in Bengal

WHEREAS, for the removal of doubts respecting the course proper to be followed in the settlement of land added by alluvial accession to estates paying revenue to Government, it is expedient to lay down certain rules to be observed in the settlement of such land, It is enacted as follows:—

I. When land added by alluvial accession to an estate paying revenue to Government becomes liable to assessment, if it be so agreed on between the Revenue authorities and the proprietor or proprietors, the revenue assessed upon the alluvial land may be added to the jumma of the original estate; and in such case a new engagement shall be executed for the payment of the aggregate amount, and that amount shall be substituted in the Collector's rent-roll for the former jumma of the original estate. If the proprietor or proprietors object to such an arrangement, or if the Revenue authorities are of opini

on that a settlement of the alluvial land cannot properly be made for the same term as the existing settlement of the original estate, the alluvial land shall be assessed and settled as a separate estate with a separate jumma, and shall thenceforward be regarded and treated as in all respects separate from and independent of the original estate, whether the separate settlement be made with the proprietor or proprietors or the land be let in farm in consequence of the refusal of the proprietor or proprietors to accept the terms of settlement. The separate settlement may be permanent, if the settlement of the original estate is permanent.

II. Nothing contained in the preceding Section shall affect the rights of any under-tenant in any alluvial land under the provisions of Clause I Section IV Regulation XI. 1825. It shall be the duty of all Officers making settlements of such land, whether the land be settled separately or incorporated with the original estate, to ascertain and record all such rights according to the rules prescribed in Regulation VII. 1822 ; and to determine whether any and what additional rent shall be payable in respect of the alluvial land by the person or persons entitled to any undertenure in the original estate. The provisions of the said Regulation, so far as the same may be applicable, are hereby declared to extend to all settlements made under this Act.

III. Every separate settlement of alluvial land heretofore made shall be as good and effectual for the purposes specified in Section I, as the same would have been if made subsequently to the passing of this Act. Provided, that nothing contained in this Act shall be held to affect the rights which any person may have acquired, under a judicial decision or otherwise, before the passing of this Act.

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## MADRAS

## ACT No. XXXII OF 1858.

1. *Fort of Tanjore and adjacent territory placed under the general laws of the Madras Presidency.*

2. *No Court to try or determine any case respecting which a final decision has been pronounced by any of the Rajah's Courts before this Act comes into operation.*

3. *Decisions of such Courts in original Civil suits to be considered final, if no appeal is made within thirty days.*

4. *Pending suits, appeals, and proceedings to be transferred to Courts to be established by Government.*

5. *Appeals presented to the Zillah Court within thirty days after the decision appealed against, to be treated as pending appeals.*

6. *Application of the general laws to the trial of such suits, appeals and proceedings.*

7. *Execution of decrees passed by the Rajah's Courts.*

8. *Commencement of Act.*

An Act for bringing the Fort of Tanjore and the adjacent territory under the Laws of the Presidency of Fort St. George.

WHEREAS it is expedient to bring the Fort of Tanjore and the adjacent territory, which have lapsed to the East India Company in consequence of the death of the Rajah of Tanjore, under the general laws of the Presidency of Fort St. George, and to make provision for the trial and determination of suits, appeals, and proceedings pending in any of the Courts established by the said Rajah; It is enacted as follows:—

I. From and after the day when this Act shall come into operation, the Fort of Tanjore and adjacent territory shall be subject to the general laws which are or shall be in force within the territories subject to the Presidency of Fort St. George.

II. No Court shall try or determine any case, Civil or Criminal, with respect to which a final decision may have been pronounced before this Act shall come into operation by any of the Courts established by the said Rajah, exercising jurisdiction within the said Fort of Tanjore and adjacent territory at the time of the passing of this Act.

Fort of Tanjore and adjacent territory placed under the general laws of the Madras Presidency.

No Court to try any case finally decided by any of the Rajah's Courts before this Act comes into operation.

III. A decision passed by any such Court in an original Civil suit shall be considered as final, if no appeal have been or shall be made against it within thirty days after the decision was passed.

Decisions of such Courts to be final, if no appeal is made within 30 days

IV. All original suits and appeals and all proceedings, which shall be pending in any of the Courts mentioned in Section II at the time when this Act shall come into operation, shall be transferred to the Courts and Officers to be established and appointed for the administration of Civil and Criminal justice within the said Fort and adjacent territory, according to their respective jurisdictions.

Pending suits, &c., to be transferred to the new Courts

V. Appeals from decrees in original suits, and second appeals from decrees passed in appeal, not pending at the time when this Act shall come into operation, but presented to the Zillah Court within thirty days after the passing of the decision appealed against, shall be received by such Court, and disposed of in the same manner as pending appeals.

Appeals presented within 30 days to be treated as pending appeals.

VI. The general laws in force within the territories subject to the Presidency of Fort St. George shall be applied and administered by the said Courts and Officers in the trial and determination of such suits, appeals, and proceedings. Provided that, if in any Civil case it shall appear that the application of the said laws would operate unjustly if applied to the trial and determination thereof, it shall be lawful for the said Courts to try and determine the same according to equity and good conscience. Provided also, that no act committed within the said Fort and adjacent territory, before this Act comes into operation, shall be deemed an offence punishable under the provisions hereof, if at the time of the commission of such act the same was not contrary to the laws then in force within the said Fort and adjacent territory.

Application of the general laws to the trial of such suits, &c.

VII. Decrees passed by any of the Courts mentioned in Section II of this Act may be executed according to the law in force for the execution of decrees within the territories subject to the Presidency of Fort St. George, or as near thereto as may be.

Execution of decrees passed by the Rajah's Courts.

Commence-  
ment of Act.

VIII. This Act shall come into operation from such day as shall be fixed by the Governor of Fort St. George in Council, by notice to be published in the Government Gazette

GENERAL.

### ACT No. XXXIII of 1858

1. *Section III Act XII of 1844 not to prevent the trial of Naval Officers by Courts Martial for certain offences, whether committed at sea or on shore.*

An Act to amend Act XII of 1844 (for better securing the observance of an exact discipline in the Indian Navy).

WHEREAS, by Section III Act XII of 1844, it was provided that nothing in that Act contained should extend or be construed to extend to empower any Court Martial, to be constituted by virtue of that Act, to proceed to the punishment or trial of any of the offences specified in the several Articles contained in that Act, or of any offence whatsoever, (other than the offences specified in the 5th, 34th, and 35th of the said Articles and Orders) which should not be committed upon the main sea, or in great rivers only beneath the bridges of the said rivers high to the sea, or haven, river, or creek within the jurisdiction of the Admiralty, and which should not be committed by such person as, at the time of the offence committed, should be in actual service and full pay in the Indian Navy, such persons only excepted and for such offences only as were described in the 5th of the said Articles and Orders, and whereas it is expedient that every superior Officer, Captain or Commander, or Lieutenant belonging to the Indian Navy, should be amenable to Naval Courts Martial for the offences specified in Article 33 of the said Act, whether the same be committed on the main sea or on shore. It is enacted as follows :—

1. Nothing contained in the 3rd Section of Act XII of 1844 shall extend to any of the offences specified in Article 33 of the said Act, which, after the passing of this Act, shall

be committed by any superior Officer, Captain or Commander, or Lieutenant, belonging to the Indian Navy

# Act No XXXIV of 1858

ROYAL  
CHARTER  
COURTS

1 Court may order enquiry as to persons alleged to be insane. Order for enquiry may also direct concerning property, &c of alleged Lunatic

2 Application by whom to be made

3 Ordinarily enquiry to be by the Court. Court may for sufficient cause direct enquiry by a single Judge. Notice of enquiry to be given to Lunatic. Service of Notice. Lunatic may demand enquiry before said Court

4 Court may, at any time after the application require attendance of Lunatic for the purpose of being personally examined

5 And may authorize persons to have access to the Lunatic for the purpose of examination

6 Rules respecting attendance and examination, where the alleged Lunatic is a Roman of rank

7 Powers of Judge executing the enquiry. Judge to report

8 Court may in certain cases direct enquiry to be made before any principal Civil Court of original jurisdiction, within whose local jurisdiction the alleged Lunatic may be

9 If report of Judge or finding of Court appear defective or insufficient in form, it may be amended by the Court directing the enquiry

10 Court may direct how to be

11 Costs of enquiry

12 Finding of Court or report by Judge to be prescribed on, in regard to appointment of Committees as an inquisition

13 On appointment of Committee the Court may give certain powers for management of Lunatic's estate

14 Master to receive proposals concerning management, sale, &c of estate, without an order of reference

15 Court to make order upon the report of the Master

16 Master to determine what relatives to attend at any enquiry, at the cost of the estate. Appointment of guardian of infant relative

17 Court may make order on application concerning any matter connected with the Lunacy

18 Lunatic's property may be sold for debts, maintenance, &c

19 Committee to execute conveyances and powers

20 Court may order performance of contract.

21. *Member of partnership becoming Lunatic.*
22. *Disposal of business premises.*
23. *Committee may dispose of lease.*
24. *When and to what extent Court of Wards may assume charge of land belonging to a Lunatic. Proviso. Surplus income of the land, after payment of Government Revenue, &c., to be disposed of as the Supreme Court shall direct. Provisions of this Section not to affect certain powers given to the Supreme Court by the Act.*
25. *Stock, transferable in India, belonging to Lunatic, may be ordered to be transferred.*
26. *Stock belonging to Lunatic, residing out of India, and not within the United Kingdom, may be ordered to be transferred.*
27. *Court may in certain cases apply property for Lunatic's maintenance without appointing Committee.*
28. *Like power in case of temporary Lunacy.*
29. *Proceedings in Lunacy to cease, or to be set aside, if Court after enquiry find that the unsoundness of mind has ceased.*
30. *Power of Court to make general orders.*
31. *Powers of Master to be exercised by a Judge or Recorder.*
32. *Interpretation. "Lunatic." Number. Gender.*

An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter.

WHEREAS the several Courts of Judicature established by Royal Charters within the British Territories in India are authorized and empowered by their respective Charters to appoint guardians and keepers of the persons and estates of Lunatics, and to inquire into, hear, and determine questions of alleged Lunacy by inspection of the person, or by such other ways and means by which the truth may best be discovered and known; and whereas, according to the practice of the said Courts, questions of alleged Lunacy are determined by inquisition taken before a jury, and it is expedient to lessen the cost and to alter the mode of enquiry into such questions, and also to empower the said Courts to make provision for the due management of the estates of Lunatics; It is enacted as follows:—

I. It shall be lawful for any of the said Courts of Judicature, on such application as is hereinafter mentioned, to make an order directing an enquiry whether any person

Court may order enquiry as to persons alleged to be insane  
Order for enquiry

subject to the jurisdiction of the Court, who is alleged to be Lunatic, is or is not of unsound mind and incapable of managing himself and his affairs. The order may also contain directions for other enquiries concerning the nature of the property belonging to the alleged Lunatic, the persons who are his relatives or next of kin, the time during which he has been of unsound mind, or such other matters as to the Court shall seem proper.

ry may also direct concerning property, &c., of alleged Lunatic.

II. Application for such enquiry may be made by any persons related by blood or marriage to the alleged Lunatic, or by the Advocate General

Application by whom to be made.

III. The order made by the Court upon such application shall direct the enquiry to be by the Court itself. It shall nevertheless be lawful for the Court, if it see sufficient cause for so doing, to direct the enquiry to be executed in Chambers before a single Judge, of the Court. Reasonable notice of the time and place appointed for the enquiry shall be given to the alleged Lunatic. If it shall appear that the alleged Lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper. The Court may also, if it think fit, direct a copy of such notice to be served upon any person related by blood or marriage to the alleged Lunatic. If the inquiry be directed to be executed before a single Judge, it shall be lawful for the alleged Lunatic, at any time before the day fixed for the enquiry, to demand an enquiry before the full Court. In such case the enquiry shall be by the Court, and a further day shall be appointed for making such enquiry; and in such case the Court may direct such further notices (if any) to be given, as it may think requisite.

Ordinarily, enquiry to be by the Court. Court may direct enquiry by a single Judge. Notice to be given to Lunatic. Lunatic may demand enquiry before full Court.

IV. The Court may, at any time after the application, require the alleged Lunatic to attend at such convenient time and place, within twenty miles of the place of residence of the said Lunatic, as it may appoint, for the purpose of being personally examined by the Court or by any person

Court may, at any time, require attendance of Lunatic for personal examination.



from whom the Court may desire to have a report of the mental capacity and condition of such alleged Lunatic.

And may authorize access to the Lunatic for the purpose of examination.

V. The Court may likewise, at any time after the application for such enquiry, make an order authorizing any person or persons, to be therein named, to have access to the alleged Lunatic for the purpose of a personal examination.

Rules where the alleged Lunatic is a woman of rank

VI. The attendance and examination of the alleged Lunatic under the provisions of the two last preceding Sections shall, if the alleged Lunatic be a woman who, according to the custom and manners of the country, ought not to be compelled to appear in public, be regulated by the rules in force for the examination of such persons in other cases.

Powers of Judge executing the enquiry Judge to report.

VII. If the enquiry is made by a Judge of the Court, the Judge executing the enquiry shall, while so employed, have power (subject to the provisions of the last preceding Section) personally to examine the alleged Lunatic and take such evidence, on oath or otherwise, and call for such information as he may think fit or the said Court may direct, in order to ascertain whether the alleged Lunatic is or is not of unsound mind, and shall have the like powers and authority as are or may be vested by law in a Judge or Master of the said Court for the investigation of matters referred to them by the Court. The Judge shall report to the Court the result of the enquiry.

Court may in certain cases direct enquiry to be made before any principal Civil Court of original jurisdiction.

VIII. If the alleged Lunatic be not within the local limits of the jurisdiction of the Court, and the enquiry cannot conveniently be made in either of the modes hereinbefore provided, the Court may direct the enquiry to be made before any principal Court of original jurisdiction in Civil cases, within whose local jurisdiction the alleged Lunatic may be; and such last mentioned Court shall accordingly proceed to make such enquiry in the same manner as if the alleged Lunatic were subject to its jurisdiction, and shall certify its finding upon the matters of enquiry to the Court directing the enquiry. The evidence taken upon the enquiry shall be recorded by the Court in the English language in the form of a

narrative, and a copy thereof, certified by the Court, shall be transmitted, together with any remarks the Court may think fit to make thereon, to the Court by which the enquiry was directed

IX. If the report of the Judge, or the finding of a Court under the last preceding Section, appear to the Court directing the enquiry to be defective or insufficient in point of form, it shall be lawful for such last mentioned Court either to amend the same, or to refer it back to the Judge or the Court which made the enquiry to be amended.

**If report of Judge or finding of Court appear defective or insufficient in form, it may be amended.**

X. It shall be lawful for the Court, on the application of the person at whose instance the order directing an enquiry was made, or on the application of the alleged Lunatic or of any of his relatives authorized by the Court to make the application, to direct a new trial of the matters of enquiry according to the usual course and practice of the Court in directing new trials in Civil cases. If such application be granted in a case tried by a single Judge, the order granting the same shall direct the enquiry to be made by the full Court. If the application be granted in a case tried under Section VIII, the Court directing the new trial may give such directions regarding the same as it shall see fit

**Court may direct new trial.**

XI. The Court shall make such order as may appear just respecting the costs of any enquiry under this Act, and may include therein such remuneration to Physicians and Surgeons as the Court, having regard to the nature of the enquiry, shall deem reasonable.

**Costs of enquiry**

XII. If no new trial be directed, the finding of the Court to which the application for enquiry was made, if the enquiry have been made by such Court, or the report of the Judge, or the finding of the Court to which the enquiry may have been referred under the provisions of Section VIII, as the case may be, shall be of the same force and effect, and be proceeded on in the same manner in regard to the appointment of Committees of the person and estate of the

**Finding of Court or report by Judge to be proceeded on, as an inquisition.**

Lunatic, as the inquisition now according to practice taken upon the oath of a jury.

**Court may give to Committee certain powers for management of Lunatics estate.**

XIII It shall be lawful for the Court, on the appointment of Committees of the person and estate of a Lunatic, to direct by the order of appointment, or by any subsequent order, that the person to whom the charge of the estate is committed shall have such powers for the management thereof as to the Court shall seem necessary and proper, reference being had to the nature of the property, whether moveable or immoveable, of which the estate may consist. But such powers shall not extend to the sale or charge by way of mortgage of the estate or any part thereof, or to the letting of any immoveable property, unless for a term not exceeding three years.

**Master to receive proposals concerning management, sale &c of estate, without an order of reference.**

XIV The Master of the Court shall be at liberty, without an order of reference, to receive any proposal and conduct any enquiry respecting the management of the estate of a Lunatic, if such proposal relate to any matter which the Committee of the estate has not been empowered by an order under the last preceding Section to dispose of. The Master may likewise, without reference, receive and enquire into any proposal relating to the sale or charge by way or mortgage of the estate or of any part thereof, or to the letting of any immoveable property for a term exceeding three years.

**Master to report, and Court to make order thereupon.**

XV The Master shall report to the Court on the proposal; and the Court shall, subject to the provisions of this Act, make such order upon the report and respecting the costs, as shall, under the circumstances, seem just.

**Master to determine what relatives shall attend at any enquiry.**

XVI The Court or the Master shall once in the matter of each Lunacy, and may afterwards from time to time, determine whether any one or more and (if any) how many and which of the relatives or next of kin shall attend before the Master, at the cost of the estate, in any proceeding connected with the management thereof; and, if any such relative or next of kin is an infant, may from time to time

appoint a fit person to be his guardian for the purposes of the Lunacy.

XVII. The Court may, on application made to it by petition concerning any matter whatsoever connected with the Lunacy, make such order, subject to the provisions of this Act, respecting the application and the costs thereof, and of the consequent proceedings, as shall, under the circumstances, seem just.

**Court may make order on application concerning any matter connected with the Lunacy.**

XVIII. The Court may, if it appears to be just or for the Lunatic's benefit, order that any property, moveable or immoveable, of the Lunatic, and whether in possession, reversion, remainder, contingency, or expectancy, be sold or charged by way of mortgage or otherwise disposed of, as may seem most expedient for the purpose of raising money to be applied for any of the following purposes.—

**Lunatic's property may be sold for debts, maintenance, &c.**

1 The payment of the Lunatic's debts, including any debt incurred for his maintenance or otherwise for his benefit

2 The discharge of any incumbrance on his estate.

3. The payment of or provision for the expenses of his future maintenance and the maintenance of his family, including the expenses of his removal to Europe, when he shall be so removed, and all expenses incidental thereto

4 The payment of the costs of any enquiry under this Act, and of any costs incurred by order or under the authority of the Court.

XIX. The Committee of the Lunatic's estate shall, in the name and on behalf of the Lunatic, execute all such conveyances and instruments of transfer relative to any sale, mortgage, or other disposition of his estate as the Court shall order. In like manner such Committee shall, under the order of the Court, exercise all powers whatsoever vested in a Lunatic, whether the same are vested in him for his own benefit or in the character of trustee or guardian.

**Committee to execute conveyances and powers.**

XX. Where a person, having contracted to sell or otherwise dispose of his estate or any part thereof, afterwards becomes Lunatic, the Court may, if the contract is such as

**Court may order performance of contract.**

the Court thinks ought to be performed, direct the Committee of the estate to execute such conveyances and to do such other acts in fulfilment of the contract as it shall think proper

Member of partnership becoming Lunatic

XXI If a member of a partnership firm be found Lunatic, the Court may, on the application of the other partners, or of any person who appears to the Court to be entitled to require the same, dissolve the partnership, and thereupon, or upon a dissolution by decree of Court or otherwise by due course of law the Committee of the estate may, in the name and on behalf of the Lunatic, join with the other partners in disposing of the partnership property upon such terms, and shall do all such acts for carrying into effect the dissolution of the partnership, as the Court shall think proper

Disposal of business premises

XXII Where a Lunatic has been engaged in business, the Court may, if it appear to be for the Lunatic's benefit that the business premises should be disposed of, order the Committee of the estate to sell and dispose of the same, and the moneys arising from such sale shall be applied in such manner as the Court shall direct

Committee may dispose of lease

XXIII Where a Lunatic is entitled to a lease or under-lease and it appears to be for the benefit of his estate that it should be disposed of, the Committee of the estate may, by order of the Court, surrender, assign, or otherwise dispose of the same to such person for such valuable or nominal consideration and upon such terms as the Court shall think fit

When and how far Court of Wards may assume charge of land belonging to a Lunatic Proviso Surplus income to be disposed of as the Supreme Court shall direct This Section how far to affect powers given to the Supreme Court by the Act

XXIV If a Lunatic is possessed of any landed property situate beyond the local limits of the jurisdiction of the Court, which, by the law in force in the Presidency wherein such land is situated, subjects the proprietor, if disqualified, to the superintendence of the Court of Wards, the said Court of Wards may assume the charge of such landed property and manage the same according to the rules for the time being in force for such management Provided that, in such case, no further proceedings in respect of the

Lunacy shall be taken under any such law, nor shall it be competent to the Court of Wards or to any Collector to appoint a guardian of the person of the said Lunatic or a manager of the estate, except of the landed property which so subjects the proprietor as aforesaid. Provided also, that the surplus of the income of such landed property, after providing for the discharge of the Government Revenue and expenses of management, shall be disposed of from time to time in such manner as the Supreme Court shall direct, and not otherwise. Provided further, that nothing contained in this Section shall affect the powers given to the Supreme Court by Sections XVIII, XIX, and XX, of this Act or (except so far as relates to the management of the said landed property which so subjects the proprietor as aforesaid) the powers given by any other Section of this Act

XXV. Where any Stock or Government Securities or any Share in a Company (transferable within the said territories, or the dividends of which are payable there) is standing in the name of, or is vested in a Lunatic beneficially entitled thereto, or in a Committee of the estate of a Lunatic, or in a trustee for him, and the Committee dies intestate, or himself becomes Lunatic, or is out of the jurisdiction of the Court, or it is uncertain whether the Committee be living or dead, or he neglect or refuse to transfer the Stock, Securities, or Shares, or to receive and pay the dividends to a new Committee or as he directs, within fourteen days after being required by him to do so, then the Court may order some fit person to make such transfer, or to transfer the same, and to receive and pay over the dividends in such manner as the Court may direct, and such transfer or payment shall be valid and effectual for all purposes.

to Lunatic—  
transferable in  
India, may be  
ordered to be  
transferred.

XXVI. Where any such Stock or Government Securities or Share in a Company is standing in the name of, or vested in, any person residing out of the said territories and not in any part of the United Kingdom, the Court, upon being satisfied that such person has been declared of unsound mind, and that his personal estate has been vested in a cura-

Stock belonging  
to Lunatic, resid-  
ing out of India  
and of the United  
Kingdom, may be  
ordered to be  
transferred.

tor or manager, according to the laws of the place where he is residing, may order some fit person to make such transfer of the Stocks, Securities, or Shares, or of any part thereof, to such curator or manager or otherwise, and also to receive and pay over the dividends and proceeds, as the Court may think fit; and any act done in pursuance of such order shall be valid and effectual for all purposes.

Court may apply property for Lunatics maintenance without appointing Committee.

XXVII. If it appears to the Court, having regard to the situation and condition in life of the Lunatic and his family and the other circumstances of the case, to be expedient that his property should be made available for his or their maintenance in a direct and inexpensive manner, it may, instead of appointing a Committee of the estate, order that the property, if money, or if of any other description the produce thereof, when realized, be paid to such person as the Court may think fit, to be applied for the purpose aforesaid; and all payments so made shall be a good discharge to the person making the same.

Like power in case of temporary Lunacy.

XXVIII. If it appears to the Court that the unsoundness of mind of a Lunatic is in its nature temporary, and that it is expedient to make temporary provision for his maintenance or for the maintenance of his family, the Court may, in like manner as under the last preceding Section, direct his property or a sufficient part of it to be applied for the purpose aforesaid.

Proceedings in Lunacy to cease, or to be set aside, if Court after enquiry find that unsoundness of mind has ceased

XXIX. When any person has been found of unsound mind, and it shall be shown to the Court, either on the application of such person or of any other person acting on his behalf, or on the information of any other person, that there is reason to believe that such unsoundness of mind has ceased, the Court may make an order for enquiry whether such person is, or is not, still of unsound mind and incapable of managing himself and his affairs. The enquiry shall be conducted in the same manner and subject to the same rules as are hereinbefore prescribed for an enquiry into the unsoundness of mind of an alleged Lunatic; and if it be found that the unsoundness of mind has ceased, the Court shall order all

proceedings in the matter of the Lunacy to cease or to be set aside on such terms and conditions as under the circumstances of the case shall appear proper.

XXX. The Court may, from time to time, make such orders, not inconsistent with the provisions of this Act, as shall seem meet for carrying into effect the purposes of this Act, and for regulating the mode of proceeding before the Court, or before a Judge of the Court, or the Master, in matters of Lunacy

**Power of Court to make general orders.**

XXXI Every power given by this Act to the Master of any of the said Courts may also be exercised by a Judge of any of the said Courts, and shall in the Court of Judicature of Prince of Wales' Island, Singapore, and Malacca be exercised by the Recorder of the said Court or of any division thereof.

**Powers of Master to be exercised by a Judge or Recorder**

XXXII Unless the contrary appears from the context, the word "Lunatic," as used in this Act, shall mean any person found by due course of law to be of unsound mind and incapable of managing his affairs. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular. Words importing the masculine gender shall include females.

**Interpretation**

#### ACT No XXXV OF 1858

#### GENERAL.

- 1 *Regulations repealed.*
- 2 *Civil Court on application may institute enquiry, when a person possessed of property is alleged to be a Lunatic.*
- 3 *Application by whom to be made*
- 1 *Notice of enquiry to be given to Lunatic Service of notice*
- 5 *Court may require attendance of, and may authorize persons to have access to, Lunatic for the purpose of examination*
- 6 *Rules respecting attendance and examination, where the alleged Lunatic is a woman of rank.*
7. *Appointment of Assessors. Order of Court*
8. *Issue of Commission to a subordinate Court. Report of Subordinate Court. Order of Civil Court.*
9. *Management of Lunatic's estate, if consists of property*



*subject to Court of Wards. And in other cases. Who may be appointed Manager.*

10. *Appointment of Guardian by Civil Court.*

11. *Court may direct Collector to take charge of Lunatic's estate, if consisting of land not subject to Court of Wards. Proceedings of Collector subject to control of superior Revenue Authorities.*

12. *Remuneration of Managers and Guardians.*

13. *Duties of Guardians.*

14. *Powers of Managers.*

15. *Managers to furnish inventory and annual accounts. Providing, if accuracy of inventory or accounts be impugned.*

16. *Manager to pay proceeds of estates into the public Treasury.*

17. *Relative may sue for an account.*

18. *Removal of Manager or Guardian by Civil Court. Removal by Collector.*

19. *Manager refusing to furnish accounts, may be fined by the Court, &c.*

20. *Court may in certain cases apply property for Lunatic's maintenance without appointing a Manager.*

21. *Court may institute inquiry to ascertain whether a person has ceased to be of unsound mind. And may order estate to be restored.*

22. *Orders to be open to appeal.*

23. *Interpretation. "Lunatic" "Civil Court." Gender.*

An Act to make better provision for the care of the Estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature

WHEREAS it is expedient to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature; and to prescribe general rules by which the state of mind of persons not subject to such jurisdiction, who are alleged to be Lunatic, may be enquired into and ascertained; It is enacted as follows:—

Regulations  
repealed

I. So much of Section V Regulation X. 1793, of Section IX Regulation LII. 1803, of Regulation I. 1800, and of Section XXIX Regulation VIII. 1805, (extended to Benares by Section II Regulation VI. 1822), of the Bengal Code; and so much of Sections VI and VII Regulation V. 1804, and of Sections XX and XXII of the said Regulation (as modified by Section III Regulation X. 1831), of the

Madras Code, as relate to Lunatics or idiots—are hereby repealed.

II. Whenever any person not subject to the jurisdiction of the Supreme Courts, who is possessed of property, is alleged to be a Lunatic, the Civil Court within whose jurisdiction such person is residing may, upon such application as is hereinafter mentioned, institute an enquiry for the purpose of ascertaining whether such person is or is not of unsound mind and incapable of managing his affairs. •

Civil Court on application may institute enquiry, when a person possessed of property is alleged to be a Lunatic.

III. Application for such enquiry may be made by any relative of the alleged Lunatic or by any Public Guardian appointed under Act XIX of 1844, or by the Government Pleader, or, if the property of the alleged Lunatic consist in whole or in part of land or any interest in land, by the Collector of the District in which it is situate. If the property or any part thereof be of such a description as by the law in force in any Presidency where such property is situate would subject the proprietor, if disqualified, to the superintendence of the Court of Wards, the application may be made by the Collector on behalf of the Court of Wards.

Application by whom to be made.

IV. When the Civil Court is about to institute any such enquiry as aforesaid, it shall cause notice to be given to the alleged Lunatic of the time and place at which it is proposed to hold the enquiry. If it shall appear that the alleged Lunatic is in such a state that personal service on him would be ineffectual, the Court may direct such substituted service of the notice as it shall think proper. The Court may also direct a Copy of such notice to be served upon any relative of the alleged Lunatic.

Notice of enquiry to be given to Lunatic.

V. The Civil Court may require the alleged Lunatic to attend at such convenient time and place as it may appoint for the purpose of being personally examined by the Court, or by any person from whom the Court may desire to have a report of the mental capacity and condition of such alleged Lunatic. The Court may likewise make an order authorizing any person or persons therein named to have access to the alleged Lunatic for the purpose of a personal examination.

Court may require attendance of, and may authorize persons to have access to, Lunatic.

Rules respect-  
ing attendance  
and examina-  
tion, where the  
alleged Lunatic  
is a woman of  
rank

VI. The attendance and examination of the alleged Lunatic under the provisions of the last preceding Section shall, if the alleged Lunatic be a woman who, according to the manners and customs of the Country, ought not to be compelled to appear in public, be regulated by the rules in force for the examination of such persons in other cases.

Appointment  
of Assessors  
Order of Court

VII. The Civil Court, if it think fit, may appoint two or more persons to act as Assessors to the Court in the said enquiry. Upon the completion of the enquiry, the Court shall determine whether the alleged Lunatic is or is not of unsound mind, and may make such order as to the payment of the costs of the enquiry by the person upon whose application it was made, or out of the estate of the alleged Lunatic, if he be adjudged to be of unsound mind, or otherwise, as it may think proper.

Issue of Com-  
mission to a sub-  
ordinate Court  
Report of Sub-  
ordinate Court.  
Order of Civil  
Court.

VIII. If the alleged Lunatic reside at a distance of more than fifty miles from the place where the Civil Court to which the application shall have been made is held, the said Court may issue a Commission to any subordinate Court, to make the enquiry, and thereupon the said subordinate Court shall conduct the enquiry in the manner hereinbefore provided. On the completion of the enquiry the subordinate Court shall report its proceedings with the opinions of the Assessors, if Assessors have been appointed, and its own opinion on the case; and thereupon the Civil Court shall make such order in the case as it may think proper.

Management  
of Lunatic's es-  
tate, if subject to  
Court of Wards,  
and in other  
cases. Who  
may be appoint-  
ed Manager

IX. When a person has been adjudged to be of unsound mind and incapable of managing his affairs, if the estate of such person or any part thereof consist of property which by the law in force in any Presidency subjects the proprietor, if disqualified, to the superintendence of the Court of Wards, the Court of Wards shall be authorized to take charge of the same. In all other cases, except as otherwise hereinafter provided, the Civil Court shall appoint a Manager of the estate. Any near relative of the Lunatic, or the Public Curator, or, if there be no Public Curator, any other suitable person, may be appointed Manager.

X. Whenever a Manager of the estate of a Lunatic is appointed by the Civil Court, the Court shall appoint a fit person to be Guardian of the person of the Lunatic. The Manager, unless he be the Public Curator, may be appointed Guardian. Provided always, that the legal heir of the Lunatic shall not in any case be appointed Guardian of his person.

Appointment  
of Guardian by  
Civil Court.

XI. If the estate consist in whole or in part of land or any interest in land not subject to the jurisdiction of the Court of Wards, the Civil Court, instead of appointing a Manager, may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a Manager of the property and a Guardian of the person of the Lunatic. All the proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities

Court may di-  
rect Collector to  
take charge of  
Lunatic's estate,  
if not subject to  
Court of Wards.  
Proceedings of  
Collector subject  
to control.

XII. If the person appointed to be Manager of the estate of a Lunatic, or the person appointed to be Guardian of a Lunatic's person, shall be unwilling to discharge the trust gratuitously, the Court or the Collector, as the case may be, may fix such allowance or allowances to be paid out of the estate of the Lunatic, as under the circumstances of the case may be thought suitable.

Remuneration  
of Managers and  
Guardians

XIII. The person appointed to be Guardian of a Lunatic's person shall have the care of his person and maintenance. When a distinct Guardian is appointed, the Manager shall pay to the Guardian such allowance as shall be fixed by the Court or the Collector, as the case may be, for the maintenance of the Lunatic and of his family.

Duties of  
Guardian

XIV. Every Manager of the estate of a Lunatic appointed as aforesaid may exercise the same powers in the management of the estate as might have been exercised by the proprietor, if not a Lunatic; and may collect and pay all just claims, debts, and liabilities due to or by the estate of the Lunatic. But no such Manager shall have power to sell or mortgage the estate or any part thereof, or to grant a

Powers of  
Managers

lease of any immoveable property for any period exceeding five years, without an order of the Civil Court previously obtained.

Managers to furnish inventory and annual accounts. Proceeding if accuracy of inventory or accounts be impugned

XV. Every person appointed by the Civil Court or by the Collector to be Manager of the estate of a Lunatic shall, within six months from the date of his appointment, deliver in Court or to the Collector, as the case may be, an inventory of the landed property belonging to the Lunatic, and of all such sums of money, goods, and effects, as he shall receive on account of the estate, together with a statement of all debts due by or to the same. And every such Manager shall furnish to the Court or to the Collector annually, within three months of the close of the year of the era current in the District, an account of the property in his charge, exhibiting the sums received and disbursed on account of the estate and the balance remaining in his hands. If any relative of the Lunatic, or any public Officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement, or of any annual account, the Court may summon the Manager and enquire summarily into the matter and make such order thereon as it shall think proper, or the Court, at its discretion, may refer any such petition to any subordinate Court, or to the Collector if the Manager was appointed by the Collector.

Manager to pay proceeds into the Treasury

XVI. All sums received by a Manager on account of any estate in excess of what may be required for the current expenses of the Lunatic or of the estate, shall be paid into the public Treasury on account of the estate, and may be invested from time to time in the public Securities.

Relative may sue for an account

XVII. It shall be lawful for any relative of a Lunatic to sue for an account from any Manager appointed under this Act, or from any such person after his removal from office or trust, or from his personal representative in case of his death, in respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

XVIII. The Civil Court, for any sufficient cause, may remove any Manager appointed by the Court, not being a Public Curator, and may appoint such Curator or any other fit person in his room, and may compel the person so removed to make over the property in his hands to his successor, and to account to such successor for all monies received or disbursed by him. The Court may also, for any sufficient cause, remove any Guardian appointed by the Court. In like manner the Collector, for any sufficient cause, may remove any Manager or Guardian appointed by the Collector, and the Court, on the application of the Collector, shall compel any Manager so removed to deliver his accounts and the property in his hands.

Removal of  
Manager or  
Guardian by  
Civil Court. Re-  
moval by Collec-  
tor

XIX. The Civil Court may impose a fine not exceeding five hundred Rupees on any Manager of the estate of a Lunatic, who wilfully neglects or refuses to deliver his accounts or any property in his hands within the prescribed time or a time fixed by the Court, and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court, and may also commit the recusant to close custody until he shall deliver such accounts or property.

Manager, re-  
fusing to furnish  
accounts, may  
be fined by the  
Court, &c.

XX. If it appears to the Civil Court, having regard to the situation and condition in life of the Lunatic and his family, and the amount and description of his property, to be unnecessary to appoint a Manager of the estate as heretofore provided, the Court may, instead of appointing such Manager, order that the property, if money, or if of any other description the produce thereof, when realized, be paid to such person as the Court may think fit, to be applied for the maintenance of the Lunatic and his family.

Court may ap-  
ply property for  
Lunatic's main-  
tenance without  
appointing any  
Manager.

XXI. When any person has been adjudged to be of unsound mind and incapable of managing his affairs, if such person, or any other person acting on his behalf or having or claiming any interest in respect of his estate, shall represent by petition to the Civil Court, or if the Court shall be informed in any other manner, that the unsoundness of mind of

Court may in-  
stitute inquiry as  
to whether a  
person has  
ceased to be of  
unsound mind.  
And may order  
estate to be res-  
tored

such person has ceased, the Court may institute an enquiry for the purpose of ascertaining whether such person is or is not still of unsound mind and incapable of managing his affairs. The enquiry shall be conducted in the manner provided in Section IV and the four following Sections of this Act ; and if it be adjudged that such person has ceased to be of unsound mind and incapable of managing his affairs, the Court shall make an order for his estate to be delivered over to him, and such order shall be final.

Orders to be open to appeal.

XXII. Except as otherwise herein provided, all orders made by a Civil Court or by any subordinate Court under this Act, shall be open to appeal under the rules in force for appeals in miscellaneous cases.

Interpretation.

XXIII. The word "Lunatic," as used in this Act, unless the contrary appears from the context, shall mean every person found by due course of law to be of unsound mind and incapable of managing his affairs. The expression "Civil Court" shall mean, the principal Court of original jurisdiction in the District. Words importing the masculine gender shall include females.

#### ACT No XXXVI OF 1858.

##### GENERAL.

1. *Lunatic Asylums may be established by Government or may be licensed*

2. *Rules for the management of Asylums to be sanctioned by Government. Appointment of visitors.*

3. *Monthly inspection by visitors.*

4. *Wandering and dangerous Lunatics to be sent to the Magistrate. Certificate and order for reception in Asylum. In certain cases, a Lunatic may be committed to the care of his friends or relatives. Or sent to a licensed Asylum.*

5. *In case of neglect or cruel treatment of a Lunatic, Magistrate may order relative, or person bound to maintain him, to provide for the proper treatment of such Lunatic. If no person bound to maintain him, Magistrate may make an order for his reception in Asylum. Darogah to report neglect.*

6. *Commissioner of Police, &c., to act in the Presidency Towns and Straits Settlement.*

7 Order and certificate for reception into an Asylum in Presidency Towns and Straits Settlement

8 In places other than Presidency Towns &c., no person to be received into Asylum without order of Civil Court

9 Order of discharge from Asylum

10 Order of discharge on undertaking of relative for due treatment of the Lunatic

11 Inspector of Jails may make order of removal from one public Asylum to another

12 Amendment of order or certificate

13 Order and certificate to justify detention, and recapture after escape

14 In what cases Government to pay for the maintenance of Lunatic

15 Civil Court, on application of Magistrate may make order for the payment of cost of maintenance out of the Indian State, or by person bound to maintain him Enforcement, &c. of order for custody in the possession of a Lunatic found wandering

16 Saving of liability of relatives to maintain Lunatic

17 Saving of jurisdiction of Royal Charter Courts, &c., and of Act 11 of 1819

18 Interpretation 'Lunatic' 'Magistrate'

#### An Act relating to Lunatic Asylums

WHEREAS it is expedient to provide for the reception and detention of Lunatics in Asylums established for that purpose, It is enacted as follows —

I The Executive Government of any Presidency or place with the sanction of the Governor General of India in Council, may establish Asylums for the reception and detention of Lunatics at such places within the limits of the said Government as may be deemed proper. Any such Executive Government may also, if it think fit, grant licenses to any private persons for the establishment of such Asylums within the said limits, and may withdraw such licenses

Asylums may be established by Government or may be licensed

II The management of every Lunatic Asylum and the care and custody of its inmates shall be regulated according to such rules as shall from time to time be sanctioned by the Executive Government. The Executive Government shall appoint for every Asylum not less than three visitors,

Rules for the management of Asylums to be sanctioned by Government Appointment of visitors.



one of whom at least shall be a Medical Officer. The Inspector of Jails (where such office exists) shall be a visitor ex-officio of all the Asylums within the circle of his inspection.

Monthly inspection by visitors.

III. Two or more of the visitors, one of whom shall be a Medical Officer, shall, once at the least in every month, together inspect every part of the Asylum or Asylums of which they are visitors, and see and examine, as far as circumstances will permit, every Lunatic therein, and the order and certificate for the admission of every Lunatic admitted since the last visitation of the visitors; and shall enter in a book to be kept for that purpose any remarks which they may deem proper in regard to the management and condition of the Asylum and the Lunatics therein.

Wandering and dangerous Lunatic to be sent to the Magistrate. Certificate and order for reception in Asylum. In certain cases, a Lunatic may be committed to the care of his friends. Or sent to a licensed Asylum.

IV. It shall be the duty of every Darogah or District Police Officer to apprehend and send to the Magistrate all persons found wandering at large within his District who are deemed to be Lunatics, and all persons believed to be dangerous by reason of Lunacy. Whenever any such person as aforesaid is brought before a Magistrate, the Magistrate, with the assistance of a Medical Officer, shall examine such person, and if the Medical Officer shall sign a certificate in the Form A in the Schedule to this Act, and the Magistrate shall be satisfied on personal examination or other proof that such person is a Lunatic and a proper person to be detained under care and treatment, he shall make an order for such Lunatic to be received into the Asylum established for the Division in which the Magistrate's jurisdiction is situate, or, if such Lunatic is not a native of the country and the circumstances of the case so require, into a Lunatic Asylum at the Presidency; and shall send the Lunatic in suitable custody to the Asylum mentioned in such order. Provided that, if any friend or relative of any Lunatic, who is believed to be dangerous, shall undertake in writing to the satisfaction of the Magistrate that such Lunatic shall be properly taken care of, and shall be prevented from doing injury to himself or others, the Magistrate, instead of sending him to an Asylum, may make him over to the care of such friend or relative. Provided also that, if any

such friend or relative shall desire that the Lunatic may be sent to a licensed Asylum instead of the public Asylum of the Division, and shall engage in writing to the satisfaction of the Magistrate to pay the expenses which may be incurred for the lodging, maintenance, medicine, clothing, and care of the Lunatic in such Asylum, the Magistrate may send the Lunatic to the licensed Asylum mentioned in the engagement.

V. If it shall appear to the Magistrate, on the report of a Police Officer or the information of any other person, that any person within the limits of his jurisdiction deemed to be a Lunatic is not under proper care and control, or is cruelly treated or neglected by any relative or other person having the charge of him, the Magistrate may send for the supposed Lunatic, and summon such relative or other person as has or ought to have the charge of him; and if such relative or other person be legally bound to maintain the supposed Lunatic, the Magistrate may make an order for such Lunatic being properly cared for and treated, and, if such relative or other person shall wilfully neglect to comply with the said order, may commit him to jail for a period not exceeding one month. If there be no person legally bound to maintain the supposed Lunatic, or if the Magistrate think fit so to do, he may proceed as prescribed in the last preceding Section, and, upon being satisfied in manner aforesaid that the person deemed to be a Lunatic is a Lunatic and a proper person to be detained under care and treatment, may make an order for his reception into such Asylum as aforesaid. It shall be the duty of every Darogah or District Police Officer to report to the Magistrate every such case of neglect or cruel treatment as aforesaid which may come to his knowledge.

VI. All acts, which the Magistrate is authorized or required to do by the two last preceding Sections, may be done in the Presidency Towns and the Stations of the Straits Settlement by the Commissioner of Police; and all duties which a Darogah or District Police Officer is authorized or required to perform, may be performed in any of the said Towns

In case of neglect or cruel treatment of a Lunatic, Magistrate may order relative, or person bound to maintain him to provide for his proper treatment. If no person bound to maintain him, Magistrate may order his reception in Asylum.

Commissioner of Police, &c., to act in the Presidency Towns and Straits Settlement.

and Stations by an Officer of the Police Force not below the rank of Inspector

Order and certificate for reception into an Asylum in Presidency Towns and Straits Settlement

VII. Except as otherwise hereinbefore provided, no person shall be received into a Lunatic Asylum in any Presidency Town or in any Station of the Straits Settlement without an order under the hand of some person in the Form B in the Schedule to this Act, together with such statement of particulars as is contained in the said Form B; nor, unless such person has been found Lunatic by inquisition or under an enquiry directed by an order of one of the Courts of Judicature established by Royal Charter, without the medical certificate containing the particulars in Form A in the Schedule to this Act, of two persons each of whom shall be a Physician or Surgeon and one of whom shall be a Presidency Surgeon or a Surgeon in the employment of the Government. When such order is presented, the visitors or manager of the Asylum, before admitting the Lunatic into the Asylum, may require the friends of the said Lunatic to engage to pay the expenses which may be incurred for the lodging, maintenance, clothing, medicine, and care of the Lunatic, unless it shall appear to the said visitors that they have not sufficient means of doing so.

In places other than Presidency Towns, &c., no person to be received into Asylum without order of Civil Court except as aforesaid.

VIII. *Clause 1* — In places other than those specified in the last preceding Section, no person shall be received into a Lunatic Asylum, except as otherwise hereinbefore provided, without an order of the Civil Court.

*Clause 2* — When any person has been adjudged to be a Lunatic, and a guardian for such Lunatic has been appointed by the Court of Wards or the Collector, or by the Civil Court, if such guardian shall desire that the Lunatic be admitted into a Lunatic Asylum, he shall make application to the Civil Court, and the Judge, with the assistance of a Medical Officer, shall examine such Lunatic, and if the Medical Officer shall sign a certificate in the Form A in the Schedule to this Act, and the Judge shall be satisfied that the Lunatic is a proper person to be detained under care and treatment in a Lunatic Asylum, he shall make an order

for such person to be received into the Asylum established for the Division in which his jurisdiction is situate, or, if he think fit, into any licensed Asylum mentioned in the application.

*Clause 3.*—If any relative or friend of any person for whom a guardian has not been appointed by the Court of Wards or the Collector or by the Civil Court, desires that such person may be admitted into a Lunatic Asylum, he may make application to the Civil Court, and the Judge, if he see sufficient reason for so doing, shall enquire into the fact of Lunacy in the same manner as if an application had been made to the Civil Court under the provisions of Section III of Act XXXV of 1858 entitled “*An Act to make better provision for the care of the estates of Lunatics not subject to the jurisdiction of the Supreme Courts of Judicature*”; and if the Lunacy be established, the Judge may then proceed in the manner prescribed in the second Clause of this Section.

*Clause 4.*—Whenever the Judge shall make an order for the reception of any person into a Lunatic Asylum, he shall, at the same time, make an order for the payment of the expenses to be incurred for the lodging, maintenance, clothing, medicine, and care of such person, and such expenses shall be recovered by the Judge on the application of the visitors or manager of such Asylum. Provided however that, if it shall appear to the satisfaction of the Judge that the Lunatic has not sufficient property, and that no person legally bound to maintain the said Lunatic has sufficient means for the payment of such expenses, he shall certify the same in the order for the reception of the Lunatic into the Asylum, instead of making such order for the payment of expenses as aforesaid.

IX. It shall be lawful for three of the visitors of any Asylum, of whom one shall be a Medical Officer, by writing under their hands, to order the discharge of any person detained in such Asylum. When such order is given, if the person is detained under the order of any public Officer,

Order of discharge from Asylum.

notice of the order of discharge shall be immediately communicated to such Officer.

Order of discharge or undertaking of relative for due treatment of the Lunatic.

X. When any relative or friend of a Lunatic, detained in any Asylum under the provisions of Section IV, Section V, or Section VI of this Act, is desirous that such Lunatic shall be delivered over to his care and custody, he shall make application to the Magistrate or Commissioner of Police under whose order the Lunatic is detained, and the Magistrate or Commissioner of Police, if he think fit, after communication with the visitors or with one of them being a Medical Officer, and upon the undertaking in writing of such relative or friend, to the satisfaction of the said Magistrate or Commissioner, that such Lunatic shall be properly taken care of and shall be prevented from doing injury to himself or others, shall make an order for the discharge of such Lunatic, and such Lunatic shall thereupon be discharged.

Inspector of Jails may order removal from one public Asylum to another

XI. The Inspector of Jails may direct the removal of any Lunatic from any public Asylum to any other public Asylum within the circle of his inspection, and such order shall be sufficient authority for the removal of such Lunatic, and also for his reception into the Asylum to which he is ordered to be removed.

Amendment of order or certificate

XII. If, after the reception of any Lunatic into any Asylum, it appear that the order or the medical certificate or certificates upon which he was received is or are defective or incorrect, the same may at any time afterwards be amended by the person or persons signing the same with the sanction of two or more of the visitors of the said Asylum, one of whom shall be a Medical Officer.

Order and certificate to justify detention and recapture after escape.

XIII. Every person received into a Lunatic Asylum under any such order as is required by this Act, accompanied by the requisite medical certificate, may be detained therein until he be removed or discharged as authorized by this Act, and in case of escape may, by virtue of such order, be re-taken by the manager of such Asylum, or any officer or servant belonging thereto, or any other person authorized

in that behalf by the said manager, or any Police Officer, and conveyed to and received and detained in such Asylum.

XIV. When any Lunatic is sent to a licensed Asylum by order of a Magistrate or Commissioner of Police under Section IV, Section V, or Section VI of this Act, and when a Lunatic is admitted into such Asylum under Section VII, or an order for the reception of a Lunatic is made under Section VIII, and no engagement has been taken from the friends of the Lunatic, or order made by the Judge, for the payment of expenses under the said Section VII or Section VIII respectively, the expense of the lodging, maintenance, clothing, medicine, and care of such Lunatic shall be paid by the Government to the manager of such Asylum.

**In what cases Government to pay for the maintenance of Lunatic.**

XV. The Magistrate or Commissioner of Police by whom any Lunatic has been sent to a Lunatic Asylum, if it appear to such Magistrate or Commissioner that such Lunatic has an estate applicable to his maintenance and more than sufficient to maintain his family, or that any person is legally bound to maintain and has the means of maintaining such Lunatic, may apply to the chief Civil Court of original jurisdiction within the local jurisdiction of which the estate of the Lunatic may be situate or the person legally bound to maintain him may reside, and such Court shall enquire into the matter in a summary way, and, on being satisfied that such Lunatic has an estate applicable to his maintenance, or that any person is legally bound to maintain and has the means of maintaining such Lunatic, shall make an order for the recovery of the charges of the lodging, maintenance, clothing, medicine, and care of such Lunatic out of such estate or from such person. Such order shall be enforced in the same manner, and shall be of the same force and effect and subject to the same appeal, as any judgment or order made by the said Court in a regular suit in respect of the property or person therein mentioned. Any personal property, which may be in the possession of a Lunatic found wandering at large, may be sold by the Magistrate, and the proceeds thereof (or such

**Civil Court, on application of Magistrate, may order payment of maintenance out of the Lunatic's estate, or by person bound to maintain him.**

**Property found in possession of wandering lunatic.**

part of the same as may be necessary) applied towards the payment of the charges of the lodging and maintenance of the Lunatic, and of any other expenses incurred on his behalf.

Saving of liability of relatives to maintain Lunatic

XVI. The liability of any relative or person to maintain any Lunatic shall not be taken away or affected by any provision contained in this Act.

Saving of powers of Royal Charter Courts and of Act IV of 1849

XVII. Nothing contained in this Act shall be taken to interfere with the power of any of the Courts of Judicature established by Royal Charter over any person found to be Lunatic by inquisition, or under the provisions of Act XXXIV of 1858 entitled "*An Act to regulate proceedings in Lunacy in the Courts of Judicature established by Royal Charter*," or with the rights of any Committee of the person or estate of such Lunatic, or to affect the provisions of Act IV of 1849 entitled "*An Act for the safe custody of Criminal Lunatics*"

Interpretation

XVIII. The word "Lunatic," as used in this Act, shall mean and include every person of unsound mind, and every person being an idiot

The word "Magistrate" shall include a person exercising the powers of a Magistrate

## SCHEDULE

### FORM A

#### CERTIFICATE OF MEDICAL OFFICER — (See Sections IV and VIII)

I, the undersigned, (*here enter name and official designation*), hereby certify that I, on the      day of      at      , personally examined (*here enter name and residence of Lunatic*) and that the said      is a Lunatic (*or an idiot, or a person of unsound mind*) and a proper person to be taken charge of, and detained under care and treatment, and that I have formed this opinion on the following ground—namely —

1 Facts indicating insanity observed by myself (*here state the facts*)

2. Other facts (if any) indicating insanity communicated to me by others (*here state the information and from whom*)

(Signed) — — —

### FORM B

ORDER FOR THE RECEPTION OF A PRIVATE PATIENT — *See Section VII*

I, the undersigned, hereby request you to receive A. B., a Lunatic, [*or an idiot, or a person of unsound mind,*] as a patient into your Asylum. Subjoined is a statement respecting the said A. B.

(Signed) name

Occupation (if any)

Place of abode

Degree of relationship (if any), or other circumstance of connexion with the patient

Dated this                      day of                      one thousand eight hundred and

To                      Superintendent of the Asylum at                      [*describing the Asylum*]

### STATEMENT.

[*If any of the particulars in this Statement be not known, the fact to be so stated*]

Name of patient, with Christian name at length.

Sex and age.

Married, single, or widowed.

Condition of life, and previous occupation (if any)

The religious persuasion, as far as known.

Previous place of abode.

Whether first attack

Age (if known) on first attack

When and where previously under care and treatment

Duration of existing attack.

Supposed cause

Whether subject to Epilepsy

Whether Suicidal

Whether dangerous to others.

Whether found Lunatic by inquisition or enquiry under order of Court, and date of Commission or order for inquisition or enquiry

Whether any member of patient's family has been or is affected with insanity

(Signed) Name.



*[Where the person signing the Statement is not the person who signs the order, the following particulars concerning the person signing the Statement are to be added; namely,]*

Occupation (if any).

Place of abode.

Degree of relationship (if any), or other circumstances of connexion with the patient.

MADRAS.

• ACT NO. XXXVII OF 1858

1. *No action to be commenced or prosecuted, and no process to issue against any of the Members of the family of the late Nabob mentioned in Schedule A, unless with the consent of the Governor in Council.*

2. *Nor against any of the Members of his family or any of his retainers mentioned in Schedules B and C, without a like consent.*

3. *Commencement of Act.*

An Act to continue certain privileges and immunities to the family and retainers of His late Highness the Nabob of the Carnatic.

WHEREAS the exemption from the jurisdiction of the Civil and Criminal Courts enjoyed by the said late Nabob, his family, and servants, by virtue of the provisions of Act 1 of 1844, ceased at the death of the said late Nabob; and it is deemed expedient that some of the said persons should continue to be privileged, and that the privilege enjoyed by others should be continued as respects all acts done by them prior to the commencement of this Act; It is enacted as follows:—

I. No action shall be commenced or prosecuted, and no writ or process shall at any time be sued forth against the person, goods, or property of any of the Members of the family of the late Nabob, whose names are entered in Schedule (A) attached to this Act, unless such action shall be commenced, or such writ or process shall be sued forth with the consent of the Governor in Council of Fort St. George first had and obtained, such consent to be certified by the signature of one of the Secretaries to Government; and any action which shall at any time be commenced and any writ or process

which shall at any time be sued forth, against the person, goods, or property of any such person as aforesaid, without such consent as aforesaid, so certified as aforesaid, shall be utterly null and void.

II No action shall be commenced or prosecuted, and no writ or process shall be sued forth against the person, goods, or property of any of the Members of the family or of the retainers of the late Nabob, who were protected from the process of the Civil and Criminal Courts by Act I of 1844, and whose names are entered in Schedules B and C annexed to this Act, on account of any contract which shall have been entered into, or cause of action which shall have accrued, at a time preceding the commencement of this Act, unless such action shall be commenced, or such writ or process shall be sued forth, with the consent of the Governor in Council of Fort St. George first had and obtained, such consent to be certified by the signature of one of the Secretaries to Government, and any action which shall at any time be commenced, and any writ or process which shall at any time be sued forth, in respect of any such contract or cause of action, against the person, goods, or property of any such person as aforesaid, without such consent as aforesaid, so certified as aforesaid, shall be utterly null and void.

III This Act shall commence and take effect from the expiration of Act XXIV of 1858.

#### SCHEDULE A

Prince Azeem Jih, Ameer Ool Omrah, Oomdut Ool Moolk, Ussud Ool Dowlah, Mohummud Ally Khan Bahadoor, Zoolfaknar Jung.

Nabob Khyroon Nissa Begum.

Koolsoom Begum.

Auzum Oon Nissa Begum.

Ahmudy Begum.

Shurf Oon Nissa Begum.

Mookdutar Oon Nissa Begum.

Fukhr Oon Nissa Begum ,

Nabob Khaderiah Begum.

Fazeelut Oon Nissa Begum

Nabob Ghousiah Begum.

Fatimah Begum.

Moomtauz Oon Nissa Begum.

|                                       |                                        |
|---------------------------------------|----------------------------------------|
| Umtool Walee Valeyut Oon Nissa Begum. | Umtool Azeem Monazzaz Oon Nissa Begum. |
| Umtool Hamneedut Oon Nissa Begum.     | Umtool Azeez Monazzaz Oon Nissa Begum. |
| Raheem Oon Nissa Begum.               | Umtool Humeed Humeed Oon Nissa Begum.  |
| Ahmed Oon Nissa Begum.                |                                        |
| Umtool Ali Ghyut Oon Nissa Begum.     |                                        |

#### SCHEDULE B.

Banker Hoossam, styled Banker Hoossain Khan Bahadoor.  
 Gholam Mohummud Hoossain, styled Rasheed Ood Dowlah Gholam Mohummud Hoossain Khan Bahadoor, Iyalut Jung.  
 Gholam Mohummud, styled Mooneer Ood Dowlah, Gholam Mohummud Khan Bahadoor, Jassarut Jung.  
 Gholam Russool, styled Etebar Ood Dowlah, Gholam Russool Khan Bahadoor, Ukbur Yar Jung.  
 Ahmed Oollah, styled Moontuzim Ood Dowlah, Ahmed Oollah Khan Bahadoor, Nubbee Yar Jung.  
 Noor Oollah Meyan, styled Oomdut Ood Dowlah, Mohummud Noor Oollah Khan Bahadoor, Joorut Jung.  
 Gholam Mohi Ood Deen, styled Mewzaz Ood Dowlah, Mohi Ood Deen Yar Khan Bahadoor, Hummyut Jung.  
 Mohummud Buddee Oollah, styled Zaheer Ood Dowlah Mohummud Buddee Oollah, Khan Bahadoor, Fitrut Jung.

#### SCHEDULE C.

Moulwce Abdool Wahaub, styled Madaar Ool Omrah, Moodubhir Ool Moolk, Mookhtar Ood Dowlah, Wuzarut Khan Bahadoor Urusthoo Jung.  
 Mohummud Nukhy, styled Bukshee Ool Moolk, Bukshee Ood Dowlah, Meer Uskur Khan Bahadoor, Salar Jung.  
 Moulwce Mohummud Oollah, styled Cauzee Ool Moolk, Moonsif Ood Dowlah, Dandrus Khan Bahadoor, Moostind Jung.  
 Gholam Ghouse, styled Mohtamid Ood Dowlah, Meer Samaun Khan Bahadoor, Moontuzim Jung.  
 Mahmood Ally, styled Dubbeer Ool Moolk, Moosheer Ood Dowlah, Rauzdar Khan Bahadoor, Moojuwiz Jung.  
 Moulwce Gholam Ally, styled Moonshee Ool Moolk Dubbeer Ood Dowlah, Etimaud Khan Bahadoor, Ootard Jung.

Hajee Khader Moortuza Hoossain, styled Salar Ool Moolk, Moh-tashim Ood Dowlah Meer Atush Khan Bahadoor, Mohtashim Jung.

Act No XXXVIII OF 1858.

BENGAL.  
N. W. P.

1. *Regulation repealed*

2. *Suits and proceedings pending at the time of the transfer of the Territory. Suits instituted subsequently.*

3. *Suits determined before the transfer, but which may be re-manded by an Appellate Court.*

4. *Appeals or proceedings now pending before the Sudder Court or Board. Applications for execution of decrees.*

5. *Appeals not pending at the time of the transfer of the Territory*

An Act to repeal Regulation V. 1832 of the Bengal Code, and to make certain provisions rendered necessary by the transfer of the Delhi Territory to the administration of the Chief Commissioner of the Punjab.

WHEREAS the whole of the Delhi Territory, except such part thereof as is specified in the Schedule to this Act annexed, has been placed under the administration of the Chief Commissioner of the Punjab, and it is expedient that Regulation V. 1832 of the Bengal Code should be repealed; It is enacted as follows:—

I. Regulation V. 1832 of the Bengal Code is hereby repealed, except as to that part of the Delhi Territory which is mentioned in the Schedule to this Act annexed.

Regulation re-  
pealed.

II. All suits and proceedings which were pending in any Court or before any officer within any part of the said territory, except as aforesaid, at the time when the same was placed under the administration of the said Chief Commissioner of the Punjab, and which have been or shall be transferred to the Courts or officers which have been or shall be established or appointed for the administration of Civil and Criminal justice and the collection of the revenues therein, shall be deemed to have been lawfully transferred to such Courts and officers according to their respective juris-

Suits and pro-  
ceedings pend-  
ing at the time  
of the transfer of  
the Territory.  
Suits instituted  
subsequently.

dictions; and any suits or proceedings which, subsequently to the time when the said territory was so placed under such administration, shall have been instituted in any such Court or before any such officer, shall be deemed to have been lawfully instituted.

Suits determined before the transfer, but which may be remanded by an Appellate Court.

III. Any suit which, prior to the time when the said Territory was placed under the administration of the said Chief Commissioner, had been determined, and which hath been or shall be remanded by any Appellate Court, shall be tried before the Court which, for the time being, would be competent to try such a suit if instituted after the passing of this Act.

Appeals or proceedings now pending before the Sudder Court or Board. Applications for execution of decrees.

IV. All appeals or proceedings now pending in the Court of Sudder Dewany Adawlut, or in the Court of Nizamut Adawlut, or before the Sudder Board of Revenue for the North-Western Provinces, shall be determined by such Court or Board in the same manner as if this Act had not been passed; and all applications for execution of decrees or orders which, but for the passing of this Act, would have been made to any Court existing at the period abovementioned, shall be made to the Court or Officer who would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the passing of this Act.

Appeals not pending at the time of the transfer of the Territory.

V. All appeals from decrees or orders passed before the said Territory was so placed under the administration of the said Chief Commissioner of the Punjab, which were not pending when the said Territory was so placed under the administration of the said Chief Commissioner, shall be received, heard, and determined by the Courts or Officers who would have had jurisdiction over such appeals had the decrees or orders to which they relate been passed after the passing of this Act; and all decisions or orders passed by any such Courts or Officers on any appeals, which may have been preferred between the date on which the said Territory was so placed under the administration of the said Chief

Commissioner of the Punjab and the date of the passing of this Act shall be of the same force as if such decisions or orders had been passed after the passing of this Act

### SCHEDULE

The tract commonly called the Eastern Pergumudi lym on the left bank of the Jamma

### ACT No XXXIX of 1858

**MADRAS**

- 1 *Act repealed*
- 2 *Collector empowered to receive moneys of revenue rent by sale of moveable or immoveable property of defaulters* *Proviso*
- 3 *Seizure and sale of moveable property how to be made*
- 4 *Consequence of defaulter neglecting to pay after notice on absenting himself*
- 5 *On tender of arrears and expenses prior to the day of sale, distress to be withdrawn*
- 6 *Distrained crops how to be dealt with*
- 7 *Distrained cattle or goods not to be used*
- 8 *Officer responsible for neglecting to effect distrainted property*
- 9 *Distress to be proportionate to the arrears*
- 10 *Time for distress*
- 11 *Penalty for fraudulent conveyance of property to prevent distress*
- 12 *Claims to property distrained and sold*
- 13 *Penalty for forcibly or clandestinely taking away distrained property*
- 14 *What places distrainer may force open*
- 15 *Powers of distrainer to force open doors in the presence of a Police Officer*
- 16 *Punishment for unlawful entry*
- 17 *Proclamation to be made of the time of sale and of the property to be sold*
- 18 *Sale how to be conducted*
- 19 *Payment of the purchase money how to be made*
- 20 *When Collector may sell the immoveable in addition to the moveable property of the defaulter*
- 21 *Previous sanction of the Board of Revenue necessary for the sale of immoveable property*

22. *Rules applicable to the sale of immoveable property.*
23. *When Collector may sell the moveable after the immoveable property of the defaulter has been distrained.*
24. *Where arrears cannot be liquidated by distress, defaulter wilfully withholding payment may be arrested. Limit of imprisonment.*
25. *Proceeding by persons aggrieved by the Collector's acts under the preceding Section.*
26. *What interest to be charged on arrears.*
27. *Regulation I. 1822 not to apply to sales under this Act.*
28. *Arrears of certain Revenue, &c., other than land Revenue recoverable under this Act.*
29. *Regulation XXVIII, 1802, not to apply to arrears recoverable under this Act.*
30. *Recovery of Fines.*
31. *Suits by persons aggrieved by proceedings under this Act.*

An Act for the better recovery of Arrears of Revenue under Ryotwar Settlements in the Madras Presidency.

WHEREAS difficulties occur in applying the rules of Regulation XXVIII. 1802 of the Madras Code to lands under Ryotwar Settlements or otherwise subject to a Khas collection on the part of Government, and it is expedient to modify those rules; and whereas it is necessary to provide that the Collector shall, at his discretion, proceed to realize arrears of such revenue by the sale of either the moveable or immoveable property of defaulters; It is hereby enacted as follows:—

**Act repealed.**

I. Act XXIII of 1856 (*for the better recovery of arrears of Revenue under Ryotwar Settlements in the Madras Presidency*) is hereby repealed, except so far as relates to indemnity for any thing done before the passing of that Act.

Collector empowered to recover arrears of revenue or rent by sale of moveable or immoveable property of defaulter. *Proviso.*

II. Whenever the Revenue or rent of any such lands is withheld beyond the day on which it falls due according to the Kistbundy or other engagement, or where no particular day is fixed, then beyond the time when such Revenue or rent becomes payable agreeably to local usage, the Collector shall have authority to proceed for the recovery of such arrears by the distress and the sale of the moveable property or

the sale of the immoveable property of the defaulter, wherever found. Provided that bullocks necessary to the cultivation of a tenant's holding, ploughs and implements of husbandry, and the tools of artisans, shall not be subject to distraint or sale.

III. In the seizure and sale of moveable property for arrears of Revenue or rent, the following rules shall be observed—

**Seizure and sale of moveable property to be made as follows.**

*First.*—The Collector, or any other officer empowered by the Collector in that behalf, shall furnish to the person employed to distraint the property of a defaulter, a demand in writing and signed with his name, specifying the amount of the arrear for which the distress may be issued, and the date on which the arrear fell due. The person so deputed shall produce the writing as authority for making the distress, and, on the day on which the property may be distrained, shall deliver a copy of such writing to the defaulter, endorsing thereon a list or inventory of the property distrained and the name of the place where it may be lodged or kept.

*Second.*—The writing shall further set forth that the distrained property will be immediately brought to public sale, unless the amount and the expense of the distress be previously discharged.

*Third.*—When a defaulter may be absent, a copy of the writing, with the endorsement, shall be fixed on or left at his usual place of residence before the expiration of the third day calculating from the day of the distress.

IV. Where a defaulter on receiving notice may neglect to pay the amount due or to give satisfactory security for early payment, or where a defaulter may have absconded, or may be otherwise not forthcoming so that the notice cannot be served upon him, the distrainer shall in either case transmit an inventory of the property distrained to the nearest public officer empowered to sell distrained property, in order that it may be publicly sold for the discharge of the arrear due.

**Consequence of defaulter neglecting to pay after notice or absconding himself.**



On tender of  
arrear and  
payment to  
the distress  
distress to be  
withdrawn

V Where a defaulter may tender payment of the amount demanded after his property may have been distrained and prior to the day fixed for sale together with payment of the necessary expenses attending the distress the distrainer shall receive the amount of such arrear and expenses immediately upon the same being tendered and shall forthwith release the property.

Distrained crops  
how to be dealt  
with

VI The distrainer attaching the crops or ungathered products of the lands belonging to a defaulter may cause them to be sold when fit for reaping or gathering or at his option may cause them to be reaped or gathered in due season and stored in proper place until sold. In the latter case the expenses of reaping or gathering and storing such crops or products shall be defrayed by the owner upon his redemption of the property or from the proceeds of the sale in the event of its being sold.

Distrained cattle  
and goods not  
to be used

VII The distrainer shall not work the bullocks or cattle or employ any of the goods or effects distrained. He shall provide them with any food for the cattle or live stock the expense attending which shall be defrayed by the owner upon his redemption of the property or from the proceeds of the sale in the event of its being sold.

Officer responsible  
for loss or  
damage to  
distrained prop-  
erty

VIII Where property distrained may be stolen or lost or damaged by reason of the necessary precautions for its preservation not having been taken the loss or damage shall be made good by the Officer whose neglect occasioned the loss or damage.

Distress to be  
proportional to  
the arrear

IX The distress levied shall not be excessive that is to say the property distrained shall be as nearly as possible proportionate to the amount of the arrear.

Time of  
distress

X Distresses shall be made after sunrise and before sunset and not otherwise.

Penalty for  
fraudulent con-  
veyance of prop-  
erty to prevent  
distress

XI Where a defaulter may make a fraudulent conveyance of property to prevent the distress for arrears the Zillah Court upon proof thereof, shall summarily cause the

property to be delivered up to the distrainer, and may impose on the parties to the fraud such fine, not exceeding one-half of the value of the property, as it may think proper.

XII. Where a person, not being a defaulter or responsible for a defaulter, may claim a right to the property distrained, and the distrainer may notwithstanding cause the same to be sold, the claimants, on proof of such right in the Zillah Court and in the event of the distrainer being unable to prove the responsibility for the arrear of Revenue or rent on account of which the property may have been sold, shall recover from the distrainer the full value of such property, with costs and damages, according to the circumstances of the case. But claims to crops upon the ground, or to gathered products of the ground attached, in the possession of the defaulter, whether founded upon a previous sale, mortgage, or otherwise, shall not bar the prior claim of Revenue or rent due from the ground upon which such crop or product may have been grown.

Claims to property distrained and sold.

XIII. Where it may be proved to the satisfaction of the Zillah Court that any person has forcibly or clandestinely taken away property once distrained, the Court may cause such person to be imprisoned for a period not exceeding six months, or until he sooner restore the property or make good the value of it to the distrainer, and may also impose on him a fine not exceeding the value of such property.

Penalty for forcibly or clandestinely taking away distrained property.

XIV. The distrainer shall have power to force open any stable, cow-house, golah, granary, godown, out-house, or other building, as also to enter any dwelling-house the outer door of which may be open (excepting the apartments in such dwelling-house appropriated for the Zenana or residence of women), and to break open the door of any room in such dwelling-house for the purpose of attaching property belonging to a defaulter and lodged therein.

What places distrainer may force open.

XV. Where a distrainer may have reason to suppose that the property of a defaulter is lodged within a dwelling

Powers of distrainer to force open doors in presence of Police.

house the outer door of which may be shut, or within any apartments appropriated to women which by the usage of the country are considered private, such distrainer shall represent the same to the Head Officer of the Police (within whose jurisdiction the house may be situated), and on such representation, the Head Officer of the Police shall send a Police Officer to the spot, in the presence of whom the distrainer may force open the outer door of such dwelling-house, in like manner as they may break open the door of any room within the house, except the Zenana; the distrainer may also, in the presence of the Police Officer, after due notice given for the removal of women within a Zenana, and after furnishing means for their removal in a suitable manner (if they be women of rank who according to the customs of the country cannot appear in public), enter the Zenana apartments for the purpose of distraining the defaulter's property deposited therein; but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants; and nothing in this Act shall be understood to authorize a distrainer or his agent to force open the door of a dwelling-house, or to enter the apartments of women which by the usage of the country are considered private, in any other mode than is herein prescribed.

Punishment  
for unlawful en-  
try.

XVI. Persons entering the apartments of women, or forcing open the outer door of dwelling-houses, contrary to the provisions of this Act, shall on conviction before a Magistrate be liable to be imprisoned for any period not exceeding six months.

Proclamation  
to be made of  
time of sale and  
of the property  
to be sold

XVII. The public Officer empowered to sell distrained property shall cause to be affixed to the outer door of the defaulter's house a list of the property to be sold, with a notice specifying the place where, and the day and hour at which, the distrained property will be sold, and shall cause proclamation of the intended sale to be made by beat of drum in the village to which the lands on which the arrear has accrued may belong, and in such place or places as the

Collector may consider necessary to give due publicity to the sale. No sale shall take place, until after the expiration of a period of fifteen days from the date on which the notice may be so affixed.

XVIII. At the appointed time, the property shall be put up in one or more lots as the distrainer may consider advisable, and shall be disposed of to the highest bidder. Where the property may sell for more than the amount of the arrear, the overplus, after deducting expenses of process and interest, shall be paid to the defaulter.

**Sale how to be conducted.**

XIX. The property shall be paid for in ready money at the time of sale or as soon after as the Officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for the same. Where the purchaser may fail in the payment of the purchase money, the property shall be re sold, and the defaulting purchaser shall make good to the distrainer any loss arising, as well as the expenses incurred on the re-sale.

**Payment on the purchase money, how to be made.**

XX. When a defaulter shall not have any moveable property of which distraint can be made, or when, after the moveable property of such defaulter shall have been distrained and sold, the arrear due with interest and all expenses of the distress and sale is not liquidated by the proceeds of such sale, the Collector shall have authority to proceed against and sell the immoveable property of the defaulter for the amount due with interest and all expenses attending such sale

**When Collector may sell the immoveable property in addition to the moveable.**

XXI. Immediately on the occurrence of an arrear, or at any subsequent period, the Collector shall have authority to attach at his discretion the whole or such portion of a defaulter's immoveable property as he may deem sufficient to answer the amount in arrear, but the previous sanction of the Board of Revenue shall in all cases be necessary for the sale of immoveable property.

**Previous sanction necessary for the sale of immoveable property.**

XXII. The provisions of Sections XI, XII, XIII, XV, XVI, and XVII, Regulation XXVI. 1802, shall be applica-

**Rules for the sale of immoveable property**

ble to sales of immoveable property under this Act, but a Persian translation of the sale advertisement shall not be necessary.

When Collector may sell the moveable property after the immoveable has been distrained.

XXIII. When the immoveable property of a defaulter is first attached and sold, if the arrear due with interest, expenses of attachment and sale, and all other just charges, be not fully liquidated by the sale, the Collector may cause the moveable property of the defaulter to be distrained and sold for the recovery of the balance thereof, with interest and all expenses of the distress and sale.

Where arrears cannot be liquidated by distress, defaulter wilfully withholding payment may be arrested Limit of imprisonment.

XXIV. When arrears of Revenue or rent, with interest and other charges as aforesaid, may not be liquidated by the sale of the property of the defaulter, and the Collector shall have reason to believe that the defaulter is wilfully withholding payment of the arrears or has been guilty of any fraudulent conduct in order to evade payment, it shall be lawful for him to cause the arrest of the defaulter in the manner prescribed in Section XIII of Regulation XXVII, 1802; but no person shall be imprisoned on account of an arrear of Revenue for a longer period than two years, or for a longer period than six months if the arrear does not exceed Five Hundred Rupees, or for a longer period than three months if the arrear does not exceed Fifty Rupees.

Proceeding by persons aggrieved by the Collector's acts.

XXV. Persons aggrieved by the Collector's acts under the preceding Section may proceed in the Zillah Court according to the provisions of Sections XI and XII Regulation XXVII. 1802. The provisions of the said Sections shall be applicable to such proceedings, and no other proceeding in any Court shall be had or taken against the Collector.

What interest to be charged on arrears.

XXVI. Interest at one per centum per mensem shall be charged on all arrears of rent or Revenue under this Act from and after thirty days after the arrear has accrued.

Regulation V. 1822 not to apply.

XXVII. Regulation V. 1822 shall not be applicable to sales of property under this Act.

XXVIII. Arrears of Revenue due to Government other than land Revenue, and demands recoverable as arrears of Revenue, shall hereafter be recoverable in the same manner, as arrears of land Revenue may be recovered under the provisions of this Act.

Arrears of Revenue, &c., other than land Revenue recoverable under this Act.

XXIX. Regulation XXVIII. 1802 shall be inoperative as respects arrears of Revenue recoverable under this Act.

Regulation XXVIII 1802 not to apply.

XXX. The amount of any fine imposed under this Act shall be recoverable by the Collector in the manner prescribed in this Act for the recovery of arrears of Revenue or rent.

Recovery of Fines.

XXXI. Nothing contained in this Act shall be held to prevent parties aggrieved by any proceedings under this Act, except as hereinbefore provided, from applying to the Courts of Adawlut for redress.

Suits by persons aggrieved by proceedings under this Act.

#### ACT NO. XL OF 1858.

#### BENGAL.

1. *Regulations repealed.*

2. *Persons and property of Minors not under the protection of the Court of Wards shall be subject to jurisdiction of Civil Court.*

3. *What persons claiming to have charge of property in trust for a Minor may apply for Certificate of Administration. No person to institute or defend a suit without such Certificate. Proviso.*

4. *Who may apply to Court to appoint a person to take charge of the property, &c., of a Minor.*

5. *To what Court application to be made, if property be situate in more than one District.*

6. *Summary enquiry to be made by Court on application. Proviso.*

7. *Certificate of administration to whom to be granted. Courts may appoint person having such Certificate, Guardian of the Minor's person.*

8. *Court may call upon Collector or Magistrate for a report on the character and qualification of relative or friend.*

9. *Proceeding if no title to a Certificate be established, and if there be no relative fit to be entrusted with the property, &c., of a Minor.*

10. *If estate consist only of moveable property, &c., Court may grant Certificate to Public Curator or other person.*

11. *Appointment of Guardian. Guardian's allowance. Minor's allowance.*

12. *When the estate consists of land, Court may direct Collector to take charge of estate. Appointment of Manager and Guardian thereupon.*

13. *Costs of enquiries under this Act.*

14. *When an estate, some of the co-proprietors of which are still Minors, ceases to be subject to the Courts of Wards, Civil Court may direct Collector to retain charge of shares and persons of Minors. Provision for case of estate situated in more than one District.*

15. *Proceedings of Collector subject to control of superior Revenue Authorities.*

16. *Public Curator, &c., to furnish inventory and annual accounts. Proceeding, if accuracy of inventory or account be impugned.*

17. *Public Curator, &c., to pay proceeds of estates into Treasury. Surplus funds to be invested in public Securities.*

18. *Powers of person to whom Certificate has been granted, in the management of Minor's estate.*

19. *Relative or friend may sue for an account.*

20. *Continuance of suit instituted under this Act after disqualification shall have ceased.*

21. *Revocation of Certificate. Removal of Guardian.*

22. *Penalty for neglect or refusal to deliver accounts or property.*

23. *Civil Court may permit resignation of trust, &c.*

24. *Remuneration of Public Curator, &c.*

25. *Guardians of Minors under this Act to provide for their education. Act XXVI of 1854 declared applicable.*

26. *Persons under the age of 18 years to be held Minors for the purposes of this Act*

27. *Act not to authorize the appointment of Guardians of certain married women and other persons. Guardianship during the minority of the father or husband of a Minor, when to cease.*

28. *Appeals.*

29. *Construction of the Words " Civil Court," &c. Powers of Supreme Court not affected. Number. Gender.*

An Act for making better provision for the care of the persons and property of Minors in the Presidency of Fort William in Bengal.

WHEREAS it is expedient to make better provision for the care of the persons and property of Minors not brought

under the superintendence of the Court of Wards ; It is enacted as follows:—

I. Regulation I. 1800, Clause 8 and the six following Clauses of Section XXIX. Regulation VIII. 1805, Section V. Regulation XVII. 1805, and so much of Sections II. and III. Regulation V. 1799, and of Clauses 2 and 3 Section XVI. Regulation III. 1803, as restrict the interference of the Civil Courts in cases of inheritance by Minors, are repealed.

Regulations repealed.

II. Except in the case of proprietors of estates paying Revenue to Government who have been or shall be taken under the protection of the Court of Wards, the care of the persons of all Minors (not being European British subjects) and the charge of their property shall be subject to the jurisdiction of the Civil Court.

Persons and property of Minors not under the Court of Wards shall be subject to jurisdiction of Civil Court.

III. Every person who shall claim a right to have charge of property in trust for a Minor under a Will or Deed, or by reason of nearness of kin, or otherwise, may apply to the Civil Court for a Certificate of administration ; and no person shall be entitled to institute or defend any suit connected with the estate of which he claims the charge, until he shall have obtained such Certificate. Provided that, when the property is of small value, or for any other sufficient reason, any Court having jurisdiction may allow any relative of a Minor to institute or defend a suit on his behalf, although a Certificate of administration has not been granted to such relative.

What persons may apply for Certificate of administration. No person to institute or defend a suit without such Certificate.

Proviso.

IV. Any relative or friend of a Minor in respect of whose property such Certificate has not been granted, or, if the property consist in whole or in part of land or any interest in land, the Collector of the District may apply to the Civil Court to appoint a fit person to take charge of the property and person of such Minor.

Who may apply to Court to appoint a person to take charge of the property, &c. of a Minor.

V. If the property be situate in more than one District, any such application as aforesaid shall be made to the

To what Court application to be made, if property be situate in



more than one District. Civil Court of the District in which the Minor has his residence.

Summary en-  
by to be made

VI. When application shall have been made to the Civil Court, either by a person claiming a right to have charge of the property of a Minor, or by any relative or friend of a Minor, or by the Collector, the Court shall issue notice of the application and fix a day for hearing the same. On the day so fixed, or as soon after as may be convenient, the Court shall enquire summarily into the circumstances and pass orders in the case. Provided always, that it shall be competent to the Civil Court to direct any Court subordinate to it to make such enquiry and report the result.

Certificate of  
administration  
to whom to be  
granted. Such  
person may be ap-  
pointed Guardian  
of the Minor's  
person.

VII. If it shall appear that any person claiming a right to have charge of the property of a Minor is entitled to such right by virtue of a Will or Deed, and is willing to undertake the trust, the Court shall grant a Certificate of administration to such person. If there is no person so entitled, or if such person is unwilling to undertake the trust, and there is any near relative of the Minor who is willing and fit to be entrusted with the charge of his property, the Court may grant a Certificate to such relative. The Court may also, if it think fit, (unless a Guardian have been appointed by the father), appoint such person as aforesaid or such relative or any other relative or friend of the Minor, to be Guardian of the person of the Minor.

Court may call  
upon Collector or  
Magistrate for a  
report.

VIII. The Court may call upon the Collector or Magistrate for a report on the character and qualification of any relative or friend of the Minor, who may be desirous or willing to be entrusted with the charge of his property or person.

Proceeding if  
no title to a Cer-  
tificate be esta-  
blished, and if  
there be no rela-  
tive fit to be en-  
trusted.

IX. If no title to a Certificate be established to the satisfaction of the Court by a person claiming under a Will or Deed, and if there be no near relative willing and fit to be entrusted with the charge of the property of the Minor, and the Court shall think it to be necessary for the interest of the Minor that provision should be made by the Court

for the charge of his property and person; the Court may proceed to, make such provision in the manner hereinafter provided.

X. If the estate of the Minor consist of moveable property, or of houses, gardens, or the like, the Court may grant a Certificate to the Public Curator appointed under Section XIX Act XIX of 1841 (*for the protection of moveable and immovable property against wrongful possession in certain cases*), or, if there be no Public Curator, to any fit person whom the Court may appoint for the purpose.

If estate consist  
only of moveable  
property, &c.,  
Court may grant  
Certificate to  
Public Curator.

XI. Whenever the Court shall grant a Certificate of administration to the estate of a Minor to the Public Curator or other person as aforesaid, it shall at the same time appoint a Guardian to take charge of the person and maintenance of the Minor. The person to whom a Certificate of administration has been granted, unless he be the Public Curator, may be appointed Guardian. If the person appointed to be Guardian be unwilling to discharge the trust gratuitously, the Court may assign him such allowance, to be paid out of the estate of the Minor, as under the circumstances of the case it may think suitable. The Court may also fix such allowance as it may think proper for the maintenance of the Minor; and such allowance and the allowance of the Guardian (if any) shall be paid to the Guardian by the Public Curator or other person as aforesaid.

Appointment of  
Guardian. Guar-  
dian's allowance.  
Minor's allow-  
ance.

XII. If the estate of the Minor consist, in whole or in part, of land or any interest in land, the Court may direct the Collector to take charge of the estate, and thereupon the Collector shall appoint a Manager of the property of the Minor and a Guardian of his person, in the same manner and subject to the same rules in respect of such appointments and of the duties to be performed by the Manager and the Guardian respectively, so far as the same may be applicable, as if the property and person of the Minor were subject to the jurisdiction of the Court of Wards.

When the estate  
consists of land,  
Court may direct  
Collector to take  
charge. Appoint-  
ment of Manager  
and Guardian  
thereupon.

Costs of en-  
quiries under  
this Act.

XIII. In all enquiries held by the Civil Court under this Act, the Court may make such order as to the payment of costs by the person on whose application the enquiry was made, or out of the estate of the Minor, or otherwise, as it may think proper.

When an estate, some of the co-proprietors of which are still Minors, ceases to be subject to the Court of Wards, Civil Court may direct Collector to retain charge of shares and persons of Minors. Provision for case of estate situated in more than one District.

XIV. Whenever one or more of the proprietors of an estate, which has come under the jurisdiction of the Court of Wards on account of the disqualification of all the proprietors, ceases to be disqualified, and the estate, in consequence, ceases to be subject to the jurisdiction of the Court of Wards notwithstanding the continued disqualification of one or more of the co-proprietors, the Collector of the District in which the estate is situate may represent the fact to the Civil Court; and the Court, unless it see sufficient reason to the contrary, shall direct the Collector to retain charge of the persons, and of the shares of the property of the still disqualified proprietors, during the continuance of their disqualification, or until such time as it shall be otherwise ordered by the Court. The Collector shall in such case appoint a Guardian for the care of the persons, and a Manager for the charge of the property of the disqualified proprietors, in the manner prescribed in Section XII. If the property be situate in more than one District, the representation shall be made by the Collector who had the general management of the property under the Court of Wards, to the Civil Court of his own District, and the orders of the Court of that District shall have effect also in other Districts in which portions of the property may be situate.

Proceedings of  
Collector subject  
to control.

XV. The proceedings of the Collector in the charge of estates under this Act shall be subject to the control of the superior Revenue Authorities.

Public Curator,  
&c., to furnish  
inventory and  
annual account.  
Proceeding, if ac-  
curacy of inven-  
tory or account  
be impugned.

XVI. The Public Curator and every other Administrator to whom a Certificate shall have been granted under Section X shall, within six months from the date of the Certificate, deliver in Court an inventory of any immoveable property belonging to the Minor, and of all such sums of money,

goods, effects, and things as he shall have received on account of the estate, together with a statement of all debts due by or to the same. And the Public Curator and every such other Administrator shall furnish annually, within three months from the close of the year of the era current in the District, an account of the property in his charge, exhibiting the amount received and disbursed on account of the estate, and the balance in hand. If any relative or friend of a Minor or any Public Officer, by petition to the Court, shall impugn the accuracy of the said inventory and statement or of any annual account, the Court may summon the Curator or Administrator and enquire summarily into the matter, and make such order thereon as it shall think proper, or the Court at its discretion may refer such petition to any subordinate Court.

XVII. All sums received by the Public Curator or such other Administrator on account of any estate, in excess of what may be required for the current expenses of the Minor or of the estate, shall be paid into the public Treasury on account of the estate, and may be invested from time to time in the public Securities.

Surplus funds  
to be paid into  
Treasury and in-  
vested in public  
Securities.

XVIII. Every person to whom a certificate shall have been granted under the provisions of this Act may exercise the same powers in the management of the estate as might have been exercised by the proprietor if not a Minor, and may collect and pay all just claims, debts, and liabilities due to or by the estate of the Minor. But no such person shall have power to sell or mortgage any immoveable property, or to grant a lease thereof for any period exceeding five years, without an order of the Civil Court previously obtained.

Powers of the  
holder of a Certi-  
ficate.

XIX. It shall be lawful for any relative or friend of a Minor, at any time during the continuance of the minority, to sue for an account from any Manager appointed under this Act, or from any person to whom a Certificate shall have been granted under the provisions of this Act, or from any such Manager or person after his removal from office or trust, from his personal representative in case of his death, in

Removal of  
Guardian, Rec-  
ognition of Certi-  
ficate.

respect of any estate then or formerly under his care or management, or of any sums of money or other property received by him on account of such estate.

Continuance of  
suit after dis-  
qualification  
shall have ceased.

XX. If the disqualification of a person, for whose benefit a suit shall have been instituted under this Act, cease before the final decision thereof, it shall be lawful for such person to continue the prosecution of the suit on his own behalf.

Relative or  
friend may sue  
for an account.

XXI. The Civil Court for any sufficient cause may recall any Certificate granted under this Act, and may direct the Collector to take charge of the estate, or may grant a Certificate to the Public Curator or any other person as the case may be; and may compel the person whose Certificate has been recalled to make over the property in his hands to his successor, and to account to such successor for all monies received and disbursed by him. The Court may also for any sufficient cause remove any Guardian appointed by the Court.

Penalty for neg-  
lect or refusal to  
deliver accounts  
or property.

XXII. The Civil Court may impose a fine not exceeding Five Hundred Rupees on any person who may wilfully neglect or refuse to deliver his accounts, or any property in his hands, within the prescribed time, or a time fixed by the Court; and may realize such fine by attachment and sale of his property under the rules in force for the execution of decrees of Court; and may also commit the recusant to close custody until he shall consent to deliver such accounts or property.

Civil Court  
may permit re-  
signation of trust,  
&c.,

XXIII. The Civil Court may permit any person to whom a Certificate shall have been granted under this Act, not being the Public Curator, and any Guardian appointed by the Court, to resign his trust; and may give him a discharge therefrom on his accounting to his successor, duly appointed, for all monies received and disbursed by him, and making over the property in his hands.

Remuneration  
of Public Cura-  
or, &c.

XXIV. The Public Curator, and every other Administrator to whom a Certificate shall have been granted under Section X, shall be entitled to receive such commission, not

exceeding five per centum on the sums received and disbursed by him, or such other allowance, to be paid out of the Minor's estate, as the Civil Court shall think fit.

XXV. Every Guardian appointed by the Civil Court, or by the Collector under this Act, who shall have charge of any male Minor, shall be bound to provide for his education in a suitable manner. The general superintendence and control of the education of all such Minors shall be vested in the Civil Court or in the Collector, as the case may be; and the provisions of Act XXVI of 1854 (*for making better provision for the education of male Minors subject to the superintendence of the Court of Wards*) shall, so far as is consistent with the provisions herein contained, be applicable to the Civil Court, or to the Collector, as the case may be, in respect to such Minors, and to every such Guardian.

Guardians of Minors to provide for their education. Act XXVI of 1854, declared applicable.

XXVI. For the purposes of this Act, every person shall be held to be a Minor, who has not attained the age of eighteen years.

Persons under the age of 18 years to be held Minors.

XXVII. Nothing in this Act shall authorize the appointment of a Guardian of the person of a female whose husband is not a Minor, or the appointment of a Guardian of the person of any Minor whose father is living and is not a Minor; and nothing in this Act shall authorize the appointment of any person other than a female as the Guardian of the person of a female. If a Guardian of the person of a Minor be appointed during the minority of the father or husband of the Minor, the Guardianship shall cease as soon as the father or husband (as the case may be) shall attain the age of majority.

Guardians not to be appointed if husbands or fathers of minors are not minors. Guardianship to cease on majority of father or husband. Guardian of female Minor to be a female.

XXVIII. All orders passed by the Civil Court or by any Subordinate Court under this Act shall be open to appeal, under the rules in force for appeals, in miscellaneous cases, from the orders of such Court and the Subordinate Courts.

Appeals.

XXIX. The expression "Civil Court" as used in this Act shall be held to mean the principal Court of original jurisdiction in the District, and shall not include the Supreme

Construction.

Court ; and nothing contained in this Act shall be held to affect the powers of the Supreme Court over the person or property of any Minor subject to its jurisdiction. Unless the contrary appears from the context, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number ; and words importing the masculine gender shall include females.

## BENGAL

## ACT No XLI OF 1858.

1. *Part of Schedule A Regulation X. 1829 repealed*
2. *Stamp on deeds contained in more than one sheet of paper*  
*Proviso as regards Deeds, &c., to be hereafter executed.*
3. *Review of judgment in certain cases in which Deeds, &c.,*  
*have been rejected as not stamped.*
1. *Operation of Section III limited.*

An Act to amend Regulation X 1829 of the Bengal Code (for the collection of Stamp Duties.)

WHEREAS, by the General Rule laid down at the end of Schedule A annexed to Regulation X. 1829 of the Bengal Code, it is declared that, if any Deed, Instrument, or Document specified in that Schedule shall not be contained in one sheet or piece of paper or other material, it shall suffice that one sheet shall bear the stamp, provided that the seals or signatures of the parties and witnesses be thereupon ; and whereas the said Rule [has been productive of inconvenience, and there is reason to believe that many Deeds, Instruments, and Documents have been executed since the said Regulation came into effect in respect of which the said Rule has not been complied with ; and it is expedient to repeal the said Rule and to provide for the reception in evidence of such Deeds as aforesaid ; It is declared and enacted as follows :—

I. The above Rule is hereby repealed.

II. Every Deed, Instrument, or Document specified in the said Schedule, which is or shall be contained in more than one sheet or piece of paper or other material, shall be

Part of Schedule  
A Reg X. 1829 re-  
pealed.

Stamp on deeds  
contained in  
more than one  
sheet of paper.  
Proviso as re-

deemed to be sufficiently stamped if any one or more of such sheets or pieces of paper or other material shall bear the requisite stamp or stamps equal in value to the requisite stamp, whether the signatures or seals of the parties and witnesses shall or shall not be upon such sheet or sheets. The above provision shall apply to Deeds, Instruments, and Documents executed before this Act, as well as to Deeds, Instruments, and Documents which shall hereafter be executed. Provided, as regards Deeds, Instruments, and Documents which shall be executed after the 1st day of January 1859, that every sheet or piece of paper or other material which shall contain any part of such Deed, Instrument, or Document shall be stamped with a Government Stamp of the value of at least one anna.

**gards Deeds, &c.,  
to be hereafter  
executed.**

III In any case in which a Deed, Instrument, or Document has been rejected by any Court upon the ground that the same was not stamped within the meaning of the above-mentioned Rule, any party injured by the decision may obtain a review of judgment if the application be made within six months from the passing of this Act, and if the Court to which the application is made be satisfied that the Deed, Instrument, or Document, if admitted, would have led to a different decision upon the merits of the case.

**Review of  
judgment in cer-  
tain cases in  
which Deeds, &c.,  
have been rejec-  
ted as not stamp-  
ed**

IV. Nothing in the last preceding Section shall extend to any case in which a final decision was given more than six years before the passing of this Act.

**Operation of  
Section III li-  
mited**



## GENERAL

## ACT NO. 1 OF 1859.\*

1. *Acts repealed.*
2. *Shipping Offices.*
3. *Appointment, removal, and control of Shipping Masters and their Deputies.*
4. *Business of Shipping Masters*
5. *Fees to be paid upon engagements and discharges,*
6. *Fees by whom to be paid, &c.*
7. *Penalty on Shipping Master taking other remuneration*
8. *Business of Shipping Office may be transacted at Custom House or elsewhere.*
9. *Examinations.*
10. *Local Government to appoint examiners. Rules for conduct of examination. Fees.*
11. *Certificates of competency.*
12. *Certificates of service.*
13. *No Foreign-going ship, and no Home-trade ship above 300 tons, to go to sea without certificated master, &c.*
14. *Certificates for Foreign-going ships available for Home-trade ships.*
15. *Record of grants, cancellations, &c, of certificates.*
16. *Loss of certificate.*
17. *Foregoing provisions not to apply to ships registered under Act X of 1841, navigated by Asiatic seamen and trading between Indian and Arabian Ports.*
18. *Licenses to procure seamen.*
19. *Penalties.*
20. *Penalty for receiving remuneration from seamen for shipping them.*
21. *Agreements with seamen.*
22. *For Foreign-going ships such agreements, except in special cases, to be made before and attested by a Shipping Master.*
23. *Foreign-going ships making short voyages may have running agreements.*
24. *Engagement and discharge of seamen in the meantime.*
25. *Fees to be paid on such running agreements.*
26. *In Home-trade ships agreement to be entered into before a Shipping Master or other witness.*
27. *Special agreements for Home-trade ships belonging to same owner.*
28. *Penalty for shipping seamen without agreement duly executed.*

\* Act XXVII. of 1861 is to be read as part of this Act.

- 29 *Changes in crew to be reported.*
30. *To prevent infraction of Act, Shipping Master may board vessels and muster seamen.*
31. *Production of agreements and certificates.*
32. *Rules as to production of agreements and certificates for Home-trade ships.*
33. *Alterations to be void unless attested to have been made with the consent of all parties.*
34. *Copy of agreement to be made accessible to crew.*
35. *Seamen discharged before voyage to have compensation.*
36. *Regulation of advances and advance-notes.*
37. *Advances irregularly or improperly made not to be a discharge of wages.*
38. *Stipulations for allotment to be inserted in the agreement. Allotment-notes.*
39. *Owner, &c., to pay to Shipping\* Master the sums allotted Suits on allotment-notes. Evidence.*
40. *Receipts and payments by Shipping Master on account of allotment-notes*
41. *Discharge from Foreign-going ships to be made before Shipping Master.*
42. *Master to deliver account of wages*
43. *On discharge, Masters to give seamen certificates of discharge, and return certificates of competency or service to Mates.*
44. *Shipping Master may decide questions which parties refer to him. How award may be enforced*
45. *Master and others to produce Ship's papers to Shipping Masters, and give evidence.*
46. *Settlement of wages.*
47. *Right to wages and provisions when to begin.*
48. *Seamen not to give up certain rights.*
49. *Wages not to be dependent on the earning of freight.*
50. *In case of death, such wages to be paid as after mentioned.*
51. *Rights to wages in case of termination of service by wreck or illness.*
52. *Wages not to accrue during refusal to work or imprisonment.*
53. *Period within which wages are to be paid.*
54. *What sum in the current coin of India shall be recovered by seaman under an agreement expressing his wages, &c., to be payable in a Foreign coin.*
55. *Seaman may sue summarily before any Magistrate for wages not exceeding 500 Rupees. Order of Magistrate to be final.*
56. *Levy of wages by distress.*

57. *No Suit for wages under 500 Rupees to be instituted in Admiralty Court, &c, except in certain cases.*
58. *Master to have same remedies for wages as seamen.*
59. *Master to take charge of effects of deceased seamen.*
60. *Effects and wages to be paid to Shipping Master with full accounts.*
61. *Penalties for not taking charge of or accounting for such monies and effects.*
62. *Wages and property of deceased seamen may be paid without probate.*
63. *Disposal of wages or effects of deceased seamen not claimed within one year. If subsequent claim be made thereto. Prioriso.*
64. *Survey of provisions and water on complaint made.*
65. *Forfeiture for frivolous complaint*
66. *Allowance for short or bad provisions.*
67. *Medicines, &c., to be provided and kept on board certain ships. Prioriso.*
68. *Masters to keep weights and measures on board.*
69. *Expense of medical attendance and subsistence in case of illness, how to be defrayed.*
70. *Place to be appropriated.*
71. *Shipping Master, &c., may enter on board any ship and inspect provisions, &c. Procedure if provisions, &c., are found to be of a bad quality.*
72. *Seamen to be allowed to go ashore to make complaint to a Justice.*
73. *Sale of and charge upon wages to be included.*
74. *No debt exceeding three Rupees recoverable till end of voyage.*
75. *Penalty for overcharges by lodging-house-keepers.*
76. *Penalty for detaining seamen's effects.*
77. *Persons not to go on board before the final arrival of ship, without permission.*
78. *Penalty for solicitations by lodging-house-keepers.*
79. *Penalty for misconduct endangering ship or life or limb.*
80. *Admiralty Court in India may in certain cases remove Master and appoint a new Master.*
81. *Power to investigate cases of alleged incompetency and misconduct.*
82. *Local Government may cancel or suspend certificates in certain cases.*
83. *Offences of seamen and apprentices, and their punishments.*
84. *Entry of offences to be made in Official Log, and to be read over, or a copy given to the offender; and his reply, if any, to be also entered.*

85. *Seamen whom Masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.*

86. *Master or owner may apprehend deserters without warrant*

87. *Deserters may be sent on board in lieu of being imprisoned.*

88. *Seamen imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.*

89. *Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.*

90. *Facilities for proving desertion so far as concerns forfeiture of wages.*

91. *Costs of procuring imprisonment may, to the extent of Thirty Rupees, be deducted from wages.*

92. *Amount of forfeiture how to be ascertained, when seamen contract for the voyage.*

93. *Application of forfeitures.*

94. *Questions of forfeitures may be decided in suits for wages.*

95. *Penalty for false statement as to last ship or name*

96. *Fines to be deducted from wages, and paid to Shipping Master.*

97. *Penalty for enticing to desert, and for harbouring deserters.*

98. *Penalty for obtaining passage surreptitiously.*

99. *On change of Masters, documents hereby required shall be handed over by the old to the new Master.*

100. *Enquiry may be instituted in cases of wreck and casualty.*

101. *Investigation.*

102. *Report.*

103. *Official logs to be kept in sanctioned forms.*

104. *Entries to be made in due time.*

105. *Entries required in Official Log.*

106. *Entries how to be signed.*

107. *Penalties in respect of Official Logs.*

108. *Entries in Official Logs to be received in evidence.*

109. *Official Logs to be delivered to Shipping Master on ship's arrival at Port of destination in India.*

110. *Official Logs to be transmitted to Shipping Master in case of transfer of ship, and in case of loss.*

111. *Depositions to be received in evidence when witnesses cannot be produced. Proviso.*

112. *Adjudication of offences and recovery of penalties.*

113. *Wages, penalties, &c., payable by Master or Owner may be levied by distress of ship.*

114. *Act not to extend to ships belonging to Her Majesty or to any Foreign Prince or State. Nor (except certain Sections) to ships belonging to the subjects of any Foreign Prince or State.*

115. *Engagements between Masters of Foreign ships and lascars or native seamen.*

116. *Fees payable in respect of such engagements.*

117. *Penalty for Master of Foreign ship engaging native seaman otherwise than is allowed by two last preceding Sections. Shipping Master may board Foreign ships suspected of unlawfully shipping native seamen.*

118. *Interpretation "India." "Local Government." "Home-trade ship." "Foreign-going ship." "Master." "Seaman." Number. Gender. "Person."*

An Act for the amendment of the law relating to Merchant Seamen.

WHEREAS the law for the registry of Seamen and the grant of Register Tickets has been found to be ineffective for the purposes intended; and whereas by Section CCLXXXVIII of an Act of the Imperial Parliament called "The Merchant Shipping Act 1854," it is enacted that, "if the Governor General of India in Council, or the respective Legislative Authorities in any British possession abroad, by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the Third Part of this Act contained, to any British ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall in respect of the ships and persons to which the same are applied be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted throughout Her Majesty's dominions, in the same manner as if such provisions had been hereby so adapted and applied, and such penalties and punishments had been hereby expressly imposed." And whereas it is expedient to discontinue the practice of registry and the grant of Register Tickets, and to apply to ships registered at, trading with, or being at any Port or place in India, certain provisions of the Third Part of the said Act with such adaptations and modification as are required, and for the

purposes aforesaid to repeal the laws now in force in India relating to Merchant Seamen : It is enacted as follows :—

I. Act XXVII of 1850 entitled “An Act for the registry of Merchant Seamen,” and Act XXVIII of 1850 entitled “An Act for the encouragement of Merchant Seamen,” are hereby repealed, except as to acts done and agreements made before the passing of this Act.

Acts repealed.

#### SHIPPING OFFICES.

II. A Shipping Office shall be established at each of the Ports of Calcutta, Madras, and Bombay, and at such other Ports as the Governor General of India in Council shall hereafter deem necessary. For every such Office there shall be a Superintendent, to be called a “Shipping Master,” with such necessary Deputies, Clerks, and Servants, at such salaries, and subject to such regulations, as the local Government shall from time to time, with the sanction of the Governor General of India in Council, direct and appoint. Every act done by or before any Deputy duly appointed shall have the same effect as if done by or before a Shipping Master.

Shipping Office

III. The local Government shall have power to appoint and remove such Shipping Masters and Deputies, who shall respectively be subject to the control of that Government or of any intermediate authority which it may appoint.

Appointment, removal, and control of Shipping Masters and their Deputies

IV. It shall be the general business of Shipping Masters appointed under this Act, to superintend and facilitate the engagement and discharge of seamen in manner herein-after mentioned, to provide means for securing the presence on board at the proper times of men who are so engaged, and to perform such other duties relating to merchant seamen and merchant ships as are hereby or under the said Merchant Shipping Act 1854, or as may hereafter under the powers herein contained, be committed to them. It shall also be the duty of Shipping Masters to give to all persons desirous of apprenticing boys to the sea-service, and duly authorized so to do by Act XIX of 1850 (*concerning the binding of apprentices*), and also to Masters and Owners of ships

Business of Shipping Masters

requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships.

Fees to be paid  
upon engage-  
ments and dis-  
charges.

V. Such fees, not exceeding the sums specified in the Table marked (A) in the Schedule to this Act, as are from time to time fixed by the local Government, shall be payable upon all engagements and discharges effected before Shipping Masters as hereinafter mentioned. Scales of the fees payable for the time being shall be conspicuously placed in the Shipping Offices; and all Shipping Masters, their Deputies, Clerks, and Servants may refuse to proceed with any engagement unless the fees payable thereon are first paid.

Fees by whom  
to be paid, &c

VI. Every Owner or Master of a ship, engaging or discharging any seaman in a Shipping Office or before a Shipping Master, shall pay to the Shipping Master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, and retain, any sums not exceeding the sums specified in that behalf in the Table marked (B) in the Schedule hereto. Provided that, if in any cases the sums which the owner is so entitled to deduct exceed the amount of the fee payable by him, such excess shall be paid by him to the Shipping Master in addition to such fee.

Penalty on Ship-  
ping Master,  
&c, taking other  
remuneration.

VII. Any Shipping Master, Deputy Shipping Master, or any Clerk or Servant in any Shipping Office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seaman for any merchant ship, excepting the lawful fees payable under this Act, shall for every such offence incur a penalty not exceeding Two Hundred Rupees, and shall also be dismissed from his office.

Business of  
Shipping Office  
may be transact-  
ed at Custom  
House, or else-  
where.

VIII. The local Government may direct that, at any place at which no separate Shipping Office is established, the whole or any part of the business of the Shipping Office

shall be conducted at the Custom House, or at the office of the Master Attendant or Harbour Master, or at such other office as the Government shall direct, and thereupon the same shall be there conducted accordingly; and in respect of such business such Custom House or office as aforesaid shall for all purposes be deemed to be a Shipping Office, and the Officer of Customs or other Officer there, to whom such business is committed, shall for all purposes be deemed to be a Shipping Master within the meaning of this Act.

#### EXAMINATIONS AND CERTIFICATES OF MASTERS AND MATES.

IX. Examinations shall be instituted for persons who intend to become masters or mates of Foreign-going ships, or of Home-trade ships of a burden exceeding three hundred tons, or who wish to procure certificates of competency hereinafter mentioned.

**Examinations.**

X. The local Government, or any Board or Officer duly authorized by the local Government in that behalf, shall from time to time nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination. The local Government may, with the sanction of the Governor General of India in Council, make rules for the conduct of such examinations and as to the qualifications to be required; and such rules shall be strictly adhered to by all examiners. Fees at the following rates shall be paid by all applicants for examination:—

**Local Government to appoint examiners.**

**Rules for conduct of examination.**

**Fees.**

For a certificate as Master, ..... 10 Rupees.

Ditto ditto as Mate, ..... 5 „

XI. The local Government, or such Board or Officer as aforesaid, shall deliver to every applicant who is reported by the examiners to have passed the examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on boardship, a Certificate (hereinafter called a "Certificate of Competency") to the effect that he is competent to act as master or mate of a Foreign-going ship or of a Home-trade ship of a burden exceeding three hundred tons, as the case may be.

**Certificates of competency.**



**Certificates of service.**

XII. Certificates of service, differing in form from Certificates of competency, shall be granted as follows, (that is to say)–

1.—Every person who, before the passing of this Act, has served as master in the British merchant service or as master of any Foreign-going ship registered under Act X. of 1841, or who has attained or shall attain the rank of Lieutenant, Master, passed Mate, or second Mate, or any higher rank, in the service of Her Majesty or of the East India Company, shall be entitled to a Certificate of Service as Master for Foreign-going ships. •

2.—Every person who before the passing of this Act has served as mate in the British merchant service, or as mate of any such ship as aforesaid, shall be entitled to a Certificate of Service as mate for Foreign-going ships.

3.—Every person who, before the passing of this Act, has served as master or mate of a Home-trade ship of a burden exceeding three hundred tons, shall be entitled to a Certificate of Service as master or mate (according to such previous service) for such Home-trade ships. •

And each of such certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered; and the local Government, or such other authority as aforesaid, shall deliver such Certificates of Service to the various persons so respectively entitled thereto, upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

**No Foreign-going ship or Home-trade ship above 300 tons to go to sea without certificated master & mate.**

XIII. No Foreign-going ship or Home-trade ship of a burden exceeding three hundred tons, shall go to sea from any port in India, unless the Master and one officer besides the master have obtained and possess valid and appropriate Certificates either of competency or service under this Act or under the Merchant Shipping Act 1854; and whoever, having been engaged to serve as master or mate, goes to sea as aforesaid as such master or mate without being at the time entitled to and possessed of such a Certificate as herein

before required, and whoever employs any person as such master or mate without ascertaining that he is at the time entitled to and possessed of such Certificate, shall for each such offence be liable to a penalty of Five Hundred Rupees.

XIV. Every Certificate of Competency for a Foreign-going ship shall be deemed to be of a higher grade than the corresponding certificate for a Home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last mentioned ship, but no Certificate for a Home-trade ship shall entitle the holder to go to sea as master or mate of a Foreign-going ship

Certificates for Foreign-going available for Home-trade ships

XV. All Certificates, whether of competency or service, shall be made in duplicate, and one part shall be delivered to the person entitled to the Certificate and the other shall be kept and recorded as the local Government shall direct. A note of all orders made for cancelling, suspending, altering, or otherwise affecting any Certificate in pursuance of the powers herein contained, shall be entered in the Record of Certificates

Record of grants, cancellations &c, of Certificates

XVI. Whenever any master or mate proves to the satisfaction of the local Government or such other authority as aforesaid, that he has, without fault on his part lost or been deprived of any Certificate already granted to him a copy of the Certificate to which by the record so kept as aforesaid he appears to be entitled, shall be delivered to him, and shall have all the effect of the original

Loss of certificate

XVII. The foregoing Sections relating to examinations and certificates of masters and mates shall not apply to ships registered under Act X of 1841, and trading between ports in India and the coast of Arabia, when such ships are navigated and manned exclusively by Arabs, Persians, or other Asiatic masters and seamen.

Foregoing provisions not to apply to registered ships navigated by Asiatics and trading between India and Arabia.

#### ENGAGEMENT OF SIAMEN

XVIII. The local Government or any Board or Officer duly authorized by the Local Government in that behalf, may grant to such persons as may be deemed fit, licenses to

Licenses to procure seamen.

engage or supply seamen for merchant ships, to continue for such periods, to be upon such terms, and to be revocable upon such conditions as the Government thinks proper.

**Penalties.**

XIX. The following offences shall be punishable as hereinafter mentioned ; (that is to say)—

(1.) If any person not licensed as aforesaid, other than the owner or master or mate of the ship, or some person who is *bonâ fide* the servant and in the constant employ of the owner, or a Shipping Master duly appointed as aforesaid, engages or supplies any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied incur a penalty not exceeding One Hundred Rupees.

(2.) If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied incur a penalty not exceeding One Hundred Rupees, and, if licensed, shall in addition forfeit his license.

(3.) If any person knowingly receives or accepts to be entered on board any ship any seaman who has been engaged or supplied contrary to the provisions of this Act, he shall, for every seaman so engaged or supplied, incur a penalty not exceeding One Hundred Rupees.

Penalty for receiving remuneration from seamen for shipping them.

XX. If any person demands or receives, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorized, for providing him with employment, he shall for every such offence incur a penalty not exceeding Fifty Rupees, and, if licensed as aforesaid, shall in addition forfeit his license.

Agreements with seamen.

XXI. The master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every seaman whom he carries to sea from any port in India as one of his crew, in the manner hereinafter mentioned ; and every such agreement shall be in a form sanctioned by the

Governor General of India in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the master before any seaman signs the same, and shall contain the following particulars as terms thereof; (that is to say)—

1.—The nature and, as far as practicable, the duration of the intended voyage or engagement.

2.—The number and description of the crew, specifying how many are engaged as sailors.

3.—The time at which each seaman is to be on board or to begin work.

4.—The capacity in which each seaman is to serve.

5.—The amount of wages which each seaman is to receive.

6.—A scale of the provisions which are to be furnished to each seaman.

7.—Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Government as regulations proper to be adopted and which the parties agree to adopt.

And every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the master and seaman in each case (not being inconsistent with the provisions of this Act), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law. Provided that, if the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew made in due form according to the law of the place to which such ship belongs or in which her crew were engaged, and engages single seamen in any port in India, such seaman may sign the agreement so made, and it shall not be necessary for them to sign an agreement under this Act. Provided also that, in the case of lascars or other native seamen, when it shall be agreed that the service of any such seaman shall end at any port not in India, the agreement shall contain stipulations for providing for such seaman fit employment on

board some other vessel bound to the port at which he was shipped, or such other port as may be agreed on, or for providing for him a passage to some such port as aforesaid free of charge, or on such other terms as may be agreed on; and every such stipulation shall be signed by the owner of the vessel or by the master on his behalf.

For Foreign-going ships such agreements, except in special cases, to be made before and attested by a Shipping Master.

XXII. In the case of all Foreign-going ships, in whatever part of Her Majesty's Dominions the same are registered, the following rules shall be observed with respect to agreements; (that is to say)—

1.—Every agreement made in any Port in India (except in such cases of agreements with substitutes as are hereafter specially provided for) shall be signed by each seaman in the presence of a Shipping Master.

2.—Such Shipping Master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

3.—When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the Shipping Master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the master.

4.—In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some Shipping Master duly appointed in the manner hereinbefore specified; and whenever such last mentioned engagement cannot be so made, the master shall, before the ship puts to sea if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

XXIII In the case of Foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages, so that no such agreement shall extend beyond the next following 30th day of June or 31st day of December, or the first arrival of the ship at her port of destination in India after such date, or the discharge of cargo consequent upon such arrival, and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other Foreign-going ships, and every person engaged thereunder, if discharged in any port in India, shall be discharged in the manner hereby required for the discharge of seamen belonging to other Foreign-going ships.

Foreign-going ships making short voyages may have running agreements.

XXIV The master of every Foreign-going ship for which such a running agreement is aforesaid is made shall, upon every return to any port in India before the final termination of the agreement, discharge or engage before the Shipping Master at such port any seaman whom he is required by law so to discharge or engage, and shall upon every such return endorse on the agreement a statement, (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves port, or that all such discharges or engagements have been duly made as hereinbefore required, and shall deliver the agreement so endorsed to the Shipping Master and any master who wilfully makes a false statement in such endorsement shall incur a penalty not exceeding Two Hundred Rupees, and the Shipping Master shall also sign an endorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with, and shall re-deliver the agreement so endorsed to the master.

Engagement and discharge of seamen in the meaning

XXV For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to Foreign-going ships which have running agreements

Fees to be paid on running agreements

as aforesaid, the crew shall be considered to be engaged when the agreement is first signed, and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges shall be considered to be engagements and discharges of single seamen.

In Home-trade ships agreement to be entered into before a Shipping Master or other witness.

XXVI. In the case of Home-trade ships of a burden exceeding three hundred tons, crews or single seamen may, if the master thinks fit, be engaged before a Shipping Master in the manner hereinbefore directed with respect to Foreign-going ships; and in every case in which the engagement is not so made, the master shall, before the ship puts to sea if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness who shall attest his signature.

Special agreements for Home-trade ships belonging to same owner.

XXVII. In cases where several Home-trade ships belong to the same owner, the agreement with the seamen may, notwithstanding anything herein contained, be made by the owner instead of by the master, and the seamen may be engaged to serve in any two or more of such ships, provided that the names of the ships and the nature of the service are specified in the agreement; but, with the foregoing exception, all provisions herein contained which relate to ordinary agreements for Home-trade ships shall be applicable to agreements made in pursuance of this Section.

Penalty for shipping seamen without agreement duly executed.

XXVIII. If in any case a master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the master shall for each such offence incur a penalty not exceeding Fifty Rupees.

Changes in crew to be reported.

XXIX. The master of every Foreign-going ship, of which the crew has been engaged before a Shipping Master, shall, before finally leaving India, sign and send to the nearest Shipping Master a full and accurate statement, in a form sanctioned by the Governor General of India in Council, of every change which takes place in his crew before finally leav-

ing India, and in default shall for each offence incur a penalty not exceeding Fifty Rupees ; and such statement shall be admissible in evidence subject to all just exceptions.

XXX. For the purpose of preventing any seamen from being shipped at any port in India contrary to the provisions of this Act, the Shipping Master by himself or his Deputy may enter at any time on board any ship upon which he shall have reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein ; and any person who shall obstruct the said Shipping Master or Deputy in such duty shall be liable to a penalty not exceeding One Hundred Rupees.

Shipping Master may board vessels and muster seamen.

XXXI. The following rules shall be observed with respect to the production of Agreements and Certificates of Competency or Service for Foreign-going ships (that is to say)—

Production agreements and certificates.

1. The master of every Foreign-going ship shall, on signing the Agreement with his crew, produce to the Shipping Master before whom the same is signed, the Certificates of Competency or Service which the said master and his mate are hereby required to possess ; and upon such production being duly made, and the Agreement being duly executed as hereby required, the Shipping Master shall sign and give to the master a certificate to that effect.

2. In the case of running agreements for Foreign-going ships, the Shipping Master shall, before the second and every subsequent voyage made after the first commencement of the Agreement, sign and give to the master, on his complying with the provisions herein contained with respect to such Agreements, and producing to the Shipping Master the Certificate of Competency or Service of any mate then first engaged by him, a certificate to that effect.

3. The master of every Foreign-going ship shall, before proceeding to sea, produce the certificate so to be given to him by the Shipping Master as aforesaid to the Collector of Customs, or if there be no Collector of Customs, to the Officer whose duty it is to grant a Port Clearance. No Officer of Customs or other Officer shall clear any such ship outwards



without such production ; and if any such ship attempts to go to sea without a clearance, any such Officer may detain her until such certificate as aforesaid is produced.

4. The master of every Foreign-going ship shall, within forty-eight hours after the ship's arrival at her final port of destination in India or upon the discharge of the crew, whichever first happens, deliver such Agreement to a Shipping Master, at the place ; and such Shipping Master shall thereupon give to the master a certificate of such delivery ; and no Officer of Customs or other Officer shall clear any Foreign-going ship inwards without the production of such certificate.

And if the master of any Foreign-going ship fails to deliver the Agreement to a Shipping Master at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding Fifty Rupees.

**Rules as to production of agreements and certificates for Home-trade ships.**

XXXII. The following rules shall be observed with respect to the production of Agreements and Certificates of Competency or Service for Home-trade ships of a burden exceeding three hundred tons, (that is to say)—

1.—No such Agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her final port of destination in India after such date, or the discharge of cargo consequent upon such arrival.

2.—The master or owner of every such ship shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or (if the Ship is not at any port in India within twenty-one days after either the thirtieth day of June or the thirty-first day of December in any year) within forty-eight hours after her next arrival at any port in India, transmit or deliver to some Shipping Master in India every Agreement made within the six calendar months next preceding such days respectively, and shall also produce to the Shipping Master the Certificates of Competency or Service which the said master and his mate are hereby required to possess.

3.—The Shipping Master shall thereupon give to the master or owner a certificate of such delivery and production ; and no Officer of Customs or other Officer authorized to grant a Port Clearance shall grant a clearance for any such ship without the production of such certificate ; and if any such ship attempts to go to sea without such clearance, any such Officer may detain her until the said certificate is produced.

And if the agreement for any Home-trade ship is not delivered or transmitted by the master or owner to a Shipping Master at the time and in the manner hereby directed, such master or owner shall for every default incur a penalty not exceeding Fifty Rupees . . .

XXXIII. Every erasure, interlineation, or alteration in any such Agreement with seamen as is required by this Act (except additions so made as heretofore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration by the written attestation (it made in Her Majesty's dominions) of some Shipping Master, Justice, Officer of Customs, or other public functionary, or (if made out of Her Majesty's dominions) of a British Consular Officer, or where there is no such Officer, of two respectable British Merchants

Alterations to be void unless attested.

XXXIV. The master shall, at the commencement of every voyage or engagement, cause a legible copy of the Agreement, and if necessary a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding Fifty Rupees.

Copy of agreement to be made accessible to crew.

XXXV. Any seaman who has signed an Agreement, and is afterwards discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without his consent,

Seamen discharged before end of voyage to have compensation.

shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the Court or Magistrate hearing the case deems satisfactory, of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

#### REGULATION OF ADVANCES.

Regulation of  
advances and ad-  
vance-notes.

XXXVI. No advance of wages shall be made or advance-note given to any person but the seaman himself; and no advance of wages shall be made or advance-note given for any greater sum than the amount of one month's wages, nor unless the agreement contains a stipulation for the same and an accurate statement of the amount thereof, and no advance-note shall be given to any seaman who signs the Agreement before a Shipping Master, unless in the presence of such Shipping Master.

Advances irre-  
regularly made not  
to be a discharge  
of wages.

XXXVII. If any advance of wages is made or any advance-note given to any seaman in any such manner as to constitute a breach of any of the above provisions, the wages of such seaman shall be recoverable by him as if no such advance had been made or advance-note given, and in the case of any advance-note so given, no person shall be sued thereon under the provisions hereinafter contained, unless he was in person or by his agent a party to the irregular or improper manner of giving the same.

#### ALLOTMENT OF WAGES.

Stipulations for  
allotment to be  
inserted in the  
agreement. Al-  
lotment-notes.

XXXVIII. All stipulations for the allotment of any part of the wages of a seaman during his absence, which are made at the commencement of the voyage, shall be inserted in the Agreement, and shall state the amounts and times of the payments to be made. All allotment-notes shall be in forms sanctioned by the Local Government, and shall be made for the benefit only of a relative of the seaman or some member of his family to be named in the note, and shall be payable to the Shipping Master on account of such

relative of the seaman or member of his family. Such allotment shall not in any case exceed one-third of the wages of the seaman.

XXXIX. The Owner or any Agent who has authorized the drawing of an allotment-note shall pay to the Shipping Master on demand the sums allotted by the note, when and as the same are made payable, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages out of which the allotment is to be paid; and in the event of such sums not being paid to the Shipping Master on demand, the Shipping Master may sue for and recover them with costs. The seaman shall be presumed to be duly earning his wages, unless the contrary is shown to the satisfaction of the Court or Magistrate, either by the official statement of the change in the crew caused by his absence made and signed by the master, as by this Act is required, or by a duly certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the Master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate trying the case considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Owner, &c., to  
pay to Ship  
Master the  
allotted  
on allotment-  
notes. Evidence.

XL. The Shipping Master, on receiving any such sum as aforesaid, shall pay it over to the person named in the allotment-note. All such receipts and payments shall be entered in a book, and all entries in the said book shall be authenticated by the signature of the Shipping Master or his Deputy; and the said book shall be at all times open to the inspection of the parties concerned.

Receipts and  
payments on  
account of allot-  
ment-notes.

#### DISCHARGE AND PAYMENT OF WAGES.

XLI. All seamen discharged from any Foreign-going ship at any port in India, in, whatever part of Her Majesty's dominions the ship is registered, shall be discharged and receive their wages in the presence of a Shipping Master

Discharge from  
Foreign-going  
ships to be made  
before Shipping  
Master.

duly appointed under this Act, except in cases where some competent Court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or except as aforesaid pays his wages, in any other manner, shall incur a penalty not exceeding One Hundred Rupees; and in the case of Home-trade ships of a burden exceeding three hundred tons, seamen may, if the owner, or master so desires, be discharged and receive their wages in like manner.

Master to deliver account of wages

XLII. Every Master shall, not less than twenty-four hours before paying off or discharging any seaman, deliver to him, or if he is to be discharged before a Shipping Master to such Shipping Master, a full and true account, in a form sanctioned by the local Government, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding Fifty Rupees; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered; and the Master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages, and also upon the hearing before any competent authority of any complaint or question relating to such payments.

On discharge, masters to give seaman Certificates of Discharge, and return Certificates of Competency or Service to mates.

XLIII. Upon the discharge of any seaman or upon payment of his wages, the Master shall sign and give him a Certificate of his Discharge, in a form sanctioned by the local Government, specifying the period of his service and the time and place of his discharge; and if any master fails to sign and give to any such seaman such Certificate of Discharge, he shall for each such offence incur a penalty not exceeding One Hundred Rupees; and the master shall also upon the discharge of every certificated mate whose Certificate of Competency or Service has been delivered to and retained by

him, return such certificate, and shall in default incur a penalty not exceeding Two Hundred Rupees.

XLIV. Every Shipping Master shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall in any legal proceeding which may be taken in the matter before any Court or Magistrate, be deemed to be conclusive as to the rights of the parties; and any document purporting to be such submission or award shall be *prima facie* evidence thereof. An award made by a Shipping Master under this Section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under the provision of Section LV.

Shipping Master may decide questions which parties refer to him. How award may be enforced.

XLV. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any Shipping Master under the provisions of this Act, such Shipping Master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log-books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons, being then at or near the place, on any such matter; and every owner, agent, master, mate, or other member of the crew, who, when called upon by the Shipping Master, does not produce any such paper or document as aforesaid if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding Fifty Rupees.

Master and others to produce ship's papers to Shipping Masters and give evidence.

XLVI. The following rules shall be observed with respect to the settlement of wages, (that is to say)—

Settlement of wages.

1.—Upon the completion before a Shipping Master of any discharge and settlement, the master or owner and each seaman shall respectively, in the presence of the Shipping

Master, sign, in a form sanctioned by the local Government, a mutual release of all claims in respect of the past voyage or engagement, and the Shipping Master shall also sign and attest the release and shall retain the same.

2.—Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

3.—A copy of such release, certified under the hand of such Shipping Master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall have all the effect of the original of which it purports to be a copy.

4.—In cases in which discharge and settlement before a Shipping Master are hereby required, no payment, receipt, settlement, or discharge otherwise made shall operate or be admitted as evidence of the release or satisfaction of any claim.

5. Upon any payment being made by a master before a Shipping Master, the Shipping Master shall, if required, sign and give to such master a statement of the whole amount so paid, and such statement shall, as between the master and his employer, be received as evidence that he has made the payments therein mentioned.

#### LEGAL RIGHTS TO WAGES.

Right to wages  
and provisions  
when to begin.

XLVII. A seaman's right to wages and provisions shall be taken to commence, either at the time at which he commences work, or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Seamen not to  
give up certain  
rights.

XLVIII. No seaman shall by any agreement forfeit his lien upon the ship, or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provisions of this Act, and every stipu-

lation by which any seaman consents to abandon his rights to wages in the case of the loss of the ship, or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative. .

**XLIX.** No right to wages shall be dependent on the earning of freight; and every seaman and apprentice, who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but, in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores shall bar his claim.

**L.** If any seaman or apprentice to whom wages are due under the last preceding Section dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.

In case of death, such wages to be paid as after mentioned

**LI.** In cases where the service of any seaman terminates before the period contemplated in the Agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by reason of his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voyage granted under the provisions of the Merchant Shipping Act 1854, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Rights to wages in case of termination of service by wreck or illness.

**LII.** No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the Agreement for his beginning work; nor, unless the Court or Magistrate hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Wages not to accrue during refusal to work or imprisonment.



Period within  
which wages are  
to be paid

LIII. The master or owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered, or within five days after the seaman's discharge, whichever first happens; and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him; and every master or owner, who neglects or refuses to make payment in manner aforesaid without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two days' pay, for each of the days not exceeding ten days during which payment is delayed beyond the respective periods aforesaid; and such sum shall be recoverable as wages.

What sum in  
the coin of India  
shall be recovered  
by seaman  
for wages &c.,  
payable in a Fo-  
reign coin.

LIV. When any monies are payable in India to any seaman or apprentice for wages or otherwise under any Agreement wherein such monies are expressed to be payable in some denomination of coin other than the current coin of the port or place wherein the same have become payable, the seaman or apprentice shall be entitled to demand and recover, in the current coin of such Port or place, the amount due to him estimated according to the established par value of the coin wherein the same is so expressed to be payable.

#### MODE OF RECOVERING WAGES.

Seaman may  
sue summarily  
before any Ma-  
gistrate for  
wages not ex-  
ceeding 500  
Rupees.

LIV. Any seaman or apprentice or any person duly authorized on his behalf may sue, in a summary manner, before any Magistrate acting in or near to the place at which the service has terminated, or at which the seaman or apprentice has been discharged, or at which any person upon whom the claim is made is or resides, for any amount of wages due to such seaman or apprentice not exceeding five hundred Rupees. Every order made by such Magistrate in the matter shall be final.

Levy of wages  
by distress

LVI. When an order for the payment of wages is made by a Magistrate under the last preceding Section, and the wages are not paid at the time and in the manner prescribed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, shall be levied by distress and sale of the goods and chattels of the person

directed to pay the same, under a warrant to be issued for that purpose by the Magistrate.

**LVII.** No suit or proceeding for the recovery of wages under the sum of five hundred Rupees shall be instituted by or on behalf of any seaman or apprentice in any Court of Admiralty or Vice-Admiralty, or in any Court of Civil Judicature other than the Court of Small Causes, where such Court exists, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such Court, or unless the Magistrate, acting under the authority of this Act, refers the case to be adjudged by such Court.

No suit for wages under 500 Rupees to be instituted in Admiralty Court, &c., except in certain cases.

**LVIII.** Every master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages, which by this Act or by any law or custom any seaman, not being a master, has for the recovery of his wages; and if, in any proceeding in any Court of Admiralty or Vice-Admiralty touching the claim of a master to wages, any right of set-off or counter-claim is set up, it shall be lawful for such Court to enter into and adjudicate upon all questions and to settle all accounts then arising or outstanding and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

Master to have same remedies for wages as seamen.

#### WAGES AND EFFECTS OF DECEASED SEAMEN.

**LIX.** Whenever a seaman or apprentice, on a voyage which is to terminate at any port in India, dies during such voyage, the master shall take charge of all money, clothes and effects which he leaves on board, and shall enter in the official log-book a statement of the amount of money and a description of the effects left by the deceased, and in case of a sale of such effects, the sum received for each article sold.

Master to take charge of effects of deceased seamen.

**LX.** The master shall, within forty-eight hours after his arrival at his port of destination in India, deliver any such effects as aforesaid, and pay any money which he has taken charge of or received, and also the wages due to deceased, to the Shipping Master at such port, and shall give

Effects wages to be to Shipping Master with full accounts.

to such Shipping Master an account of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed, unless verified, if there is an official log-book, by the entry therein hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the Shipping Master to whom the account is rendered.

Penalties for not taking charge of or accounting for such monies and effects.

LXI. If the master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to make such payment or delivery, or to give such account as hereinbefore respectively directed, he shall be accountable for the money, wages, and effects of the seaman or apprentice to the Shipping Master as aforesaid, and shall pay and deliver the same accordingly. and such master shall in addition incur a penalty not exceeding treble the value of the money or effects, or if such value is not ascertained, not exceeding five hundred Rupees. All money, wages, and, effects of any seaman or apprentice dying during a voyage shall be recoverable in the same Courts, and by the same modes of proceeding, by which seamen are hereby enabled to recover wages due to them.

Wages and property of deceased seamen may be paid without probate.

LXII. When money or effects left by or due to any deceased seaman or apprentice are paid or delivered to a Shipping Master, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the Shipping Master thinks proper to allow, the Shipping Master may pay and deliver the said money and effects to any claimants who can prove themselves to the satisfaction of the said Shipping Master to be entitled thereto, and the said Shipping Master shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered; or, if he think fit so to do, the Shipping Master may require probate or letters of administration or a certificate under Act XX of 1841 *(for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives*

*of deceased persons*) to be taken out, and thereupon pay and deliver the said money and effects to the legal representative of the deceased.

LXIII. In cases of wages or effects of deceased seamen or apprentices received by any Shipping Master to which no claim is substantiated within one year from the receipt thereof by such Shipping Master, it shall be the duty of the Shipping Master to cause such effects to be sold, and to pay the proceeds of the sale and the unclaimed wages into the Public Treasury. If any subsequent claim is made to such money and is established to the satisfaction of the Shipping Master, the amount, or so much as shall appear to be due to the claimant, shall be paid out of the Public Treasury. If the claim is not established to the satisfaction of the Shipping Master, the claimant may apply by petition in a summary way to the Supreme Court of Judicature of the Presidency, or in any Station of the Settlement of Prince of Wales Island, Singapore, and Malacca, to the Court of Judicature there, and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just. Provided that, after the expiration of six years from the receipt of such wages or effects by the Shipping Master, no such claim shall be entertained without the sanction of the local Government.

Disposal of wages or effects of deceased seamen not claimed within one year, if subsequent claim be made the etc. Proviso.

#### PROVISIONS, HEALTH, AND ACCOMMODATION

LXIV. Any three or more of the crew of any ship registered at, trading with, or being at any port or place in India, may complain to any Shipping Master or other Officer duly appointed in this behalf by the local Government, that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such Officer may thereupon examine the said provisions or water or cause them to be examined; and if, on examination, such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person

Survey of provisions and water on complaint made.

making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding Two Hundred Rupees; and upon every such examination as aforesaid, the Officers making or directing the same shall enter a statement of the result of the examination in the official log, and shall send a report thereof to the Shipping Master, and such report, if produced out of the custody of such Shipping Master, shall be received in evidence in any legal proceeding. •

Forfeiture for  
frivolous com-  
plaint.

LXV. If the Officer, to whom any such complaint as last aforesaid is made, certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Allowance for  
short or bad pro-  
visions. •

LXVI. In the following cases (that is to say)—

1. If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for is reduced (except in accordance with any regulations for reduction by way of punishment contained in the Agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty, or is lawfully under confinement for misconduct, either on board or on shore);

2. If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages, (that is to say)—

(1.) If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agree-

ment, a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman.

(2.) If his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman.

(3.) In respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

But if it is shown to the satisfaction of the Court or Magistrate trying the case, that any provisions, the allowance of which has been reduced, could not be procured, or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, such Court or Magistrate shall take such circumstances into consideration and shall modify or refuse compensation as the justice of the case may require.

LXVII. All Foreign-going ships, and all Home-trade ships of a burden exceeding three hundred tons, shall have always on board a sufficient supply of medicines and appliances, suitable for diseases and accidents likely to happen on sea voyages, according to such scale as shall be from time to time issued by the local Government with the approval of the Governor General of India in Council, and published at Calcutta, Madras, and Bombay in the Government Gazettes, and in the Straits Settlement in such manner as the Governor shall notify, and in default thereof, the owner or master of every such ship shall be liable to a penalty not exceeding Two Hundred Rupees. Provided, however, that this Section shall not apply to ships navigating from the United Kingdom and coming within the provisions of Section CCXXIV of the Merchant Shipping Act 1854.

Medicines, &c.  
to be provided  
and kept on board  
certain Ships.

Masters to keep  
weights and  
measures on  
board.

LXVIII. Every master shall keep on board proper weights and measures for the purposes of determining the quantities of the several provisions and articles served out, and shall allow the same to be used, at the time of serving out such provisions and articles, in the presence of a witness whenever any dispute arises about such quantities, and in default shall for every offence incur a penalty not exceeding One Hundred Rupees.

Expense of me-  
dical attendance  
and subsistence  
in case of illness  
how to be defray-  
ed.

LXIX. Whenever the master or any seaman of any ship registered at any place in India shall receive any hurt or injury in the service of the vessel, the expense of providing the necessary surgical and medical advice and attendance with medicines, and of his subsistence, until he shall be cured or shall be brought back to the port from which he was shipped or other port agreed upon, shall be defrayed, with the cost of his conveyance to such port, by the owner of the vessel without any deduction on that account from the wages of such master, officer, or seaman ; and if paid by himself, may be recovered as part of his wages ; and if paid or allowed out of any monies forming part of the Revenues of India, shall be a charge upon the ship, and may be recovered with full costs of suit by the Secretary of State in Council.

Place to be ap-  
propriated, to  
seamen.

LXX. A place or places of shelter shall be provided below a well caulked and substantial deck for the men engaged under this Act ; such place or places shall be so arranged as to allow for the men the following spaces :—

1.—For each European seaman or apprentice or other person shipped on the same footing as an European seaman, nine superficial feet if the place be not less than six feet in height from deck to deck ; or fifty-four cubic feet if the height from deck to deck be less than six feet.

2.—For each lascar or native seaman or other person shipped on the same footing as a lascar, four superficial feet ; and if the place allotted be under the top-gallant fore-castle, such fore-castle deck shall be not less than four feet six inches above the one below it.

Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage; and, if any such place in any ship is not in the whole sufficiently large to give such space for each seaman and apprentice as hereinbefore required, or is not properly caulked and in all other respects securely and properly constructed and well ventilated, the owner shall, for every such failure to comply with the provisions of this Section, incur a penalty not exceeding Two Hundred Rupees, and if any such space as aforesaid is not kept free from goods and stores as aforesaid, the master shall, for every such failure to comply with the provisions of this Section, incur a penalty not exceeding One Hundred Rupees.

LXXI. The Shipping Master at any port in India, by himself or his Deputy, may enter at any time on board of any ship upon which seamen have been shipped at such port, and inspect the provisions and water provided for the use of the crew, and the medicines and appliances and the accommodation for seamen prescribed by this Act or by the Merchant Shipping Act 1854. If on inspection the provisions or water are found to be of bad quality and unfit for use or to be deficient in quantity, the Shipping Master shall proceed as provided in Section LXIV of this Act, and the penalty prescribed in the said Section shall be incurred by any default of the master of the ship in respect of such provisions or water,

Shipping Master,  
&c., may enter any  
ship and inspect  
provisions, &c.

#### POWER OF MAKING COMPLAINTS

LXXII. If any seaman or apprentice, whilst on board any ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the said master shall, if the ship is then at a place where there is a Magistrate, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding One Hundred Rupees.

Seamen to be al-  
lowed to go ashore  
to make complaint  
to a Justice.



## PROTECTION OF SEAMEN FROM IMPOSITION.

None of and charge  
upon wages to be  
invalid.

LXXIII. No wages due or accruing to any seaman or apprentice shall be subject to attachment from any Court ; and every payment of wages to a seaman shall be valid in law, notwithstanding any previous sale or assignment of such wages or of any incumbrance thereon ; and no assignment or sale of such wages, or of salvage made prior to the accruing thereof, shall bind the party making the same ; and no power of attorney, or authority for the receipt of any such wages or salvage shall be irrevocable.

No debt exceed-  
ing three Rupees  
recoverable till  
end of voyage

LXXIV. No debt exceeding in amount three Rupees, incurred by any seaman after he has engaged to serve, shall be recoverable until the service agreed for is concluded

Penalty for over-  
charges by lodging-  
house-keepers.

LXXV. If any person demands or receives from any seaman or apprentice payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding One Hundred Rupees.

Penalty for de-  
taining seamen's  
effects.

LXXVI. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding One Hundred Rupees ; and any Magistrate may, besides inflicting such penalty by summary order, direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Persons not to go  
on board before the  
final arrival of ship  
without permis-  
sion.

LXXVII. Every person who, not being in the service of Her Majesty and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination before her actual arrival at the place of her discharge, without the permission of the master, shall

for every such offence incur a penalty not exceeding Two Hundred Rupees; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any Police Officer, to be by him taken before a Magistrate to be dealt with according to the provisions of this Act.

LXXVIII. If, within twenty-four hours after the arrival of any ship at any port in India, any person then being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the master, he shall for every such offence, incur a penalty not exceeding Fifty Rupees.

Penalty for solicitations by lodging-house-keepers.

#### DISCIPLINE.

\* LXXIX. Any master of, or any seaman or apprentice belonging to any ship registered at, trading with, or being at any port or place in India, who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediately to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be liable to imprisonment, with or without hard labor, for a term not exceeding two years.

Penalty for misconduct endangering ship or life or limb.

LXXX. Any Court having Admiralty Jurisdiction in India may, upon application by the owner of any ship being within the jurisdiction of such Court, or by the part owner or consignee, or by the agent of the owner, or by any certificated mate, or by one-third or more of the crew of such ship, and upon proof on oath to the satisfaction of such

\_\_\_\_\_ Court in India may in certain cases re-master and at a new

Court that the removal of the master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner of his agent, or the consignee of the ship, or, if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the Court, then without such consent, appoint a new master in his stead, and may also make such order and may require such security in respect of costs in the matter as it thinks fit.

Power to investigate cases of alleged incompetency and misconduct

LXXXI If the local Government, on the information of any Shipping Master or on any other ground, has reason to believe that any master or mate who has obtained a Certificate of Competency or Service from such Government, is from incompetency or misconduct unfit to discharge his duties, it may direct any Board or Officer at or near to the place at which it may be convenient for the parties and witnesses to attend, to institute an investigation; and thereupon such Board or Officer shall conduct the investigation, and may summon the master or mate to appear, and shall give him full opportunity of making a defence either in person or otherwise, and shall, for the purpose of such investigation, have all the powers vested in Magistrates of summoning and examining witnesses, and may make such order with respect to the costs of such investigation as they may deem just, and shall on the conclusion of the investigation make a report upon the case to the local Government.

Government may cancel or suspend Certificates in certain cases.

LXXXII The local Government may suspend or cancel the Certificate (whether of Competency or Service) granted under this Act to any master or mate in the following cases;

• (that is to say) —

1. If upon any investigation made in pursuance of the last preceding Section, he is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny.

2. If upon any investigation conducted under the provisions of Sections C, CI, and CII of this Act, it is reported that the loss or abandonment of or serious damage to any ship or loss of life, has been caused by his wrongful act or default.

3. If upon any investigation conducted under the provisions of the Merchant Shipping Act 1854, or upon any investigation made by a Naval Court constituted as is provided by the said Act or any other law for the time being in force, or upon any investigation made by any Court or tribunal authorized or hereafter to be authorized by the Legislative Authority in any British possession to make enquiry into charges of incompetency or misconduct on the part of masters or mates of ships, or as to ship-wreck or other casualties affecting ships, it is reported that the loss or abandonment of, or serious damage to any ship, or loss of life, has been caused by his wrongful act or default; or that he has been guilty of any gross act of misconduct, drunkenness, or tyranny. Provided always that, in the case of any report by any such last mentioned Court or tribunal, the report shall have been confirmed by the Governor or person administering the Government of such possession.

4. If he is superseded by the order of any Admiralty Court, or of any Naval Court constituted as provided by the Merchant Shipping Act 1854 or any other law for the time being in force.

5. If he is shown to have been convicted of any offence.

And every master or mate whose Certificate is cancelled or suspended shall deliver it to the Shipping Master or to such other person as the local Government shall direct, and in default shall for each offence incur a penalty not exceeding Five Hundred Rupees; and the local Government may at any subsequent time grant to any person whose Certificate has been cancelled, a new certificate of the same or of any lower grade.

LXXXIII. Whenever any seaman who has been lawfully engaged, or any apprentice to the sea-service, commits any of the following offences, he shall be liable to be punished summarily as follows; (that is to say)—

1. For desertion he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor, and also to forfeit all or any part of the clothes

Offences of seamen and apprentices, and their punishments.

Desertion.

and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also, if such desertion takes place at any port or place not in India, at the discretion of the Court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to any port or place in India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts, to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him.

Absence without  
leave.

2. For neglecting or refusing, without reasonable cause, to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any port, either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty, not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labor, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

Quitting ship  
before she is moored.

3. For quitting the ship without leave after her arrival at her Port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay.

Disobedience.

4. For wilful disobedience to any lawful command he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labor, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two days' pay.

Continued Diso-  
bedience.

5. For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks,

with or without hard labor, and also at the discretion of the Court, to forfeit for every twenty-four hours' continuance of such disobedience or neglect, either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

6. For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Assault on master or mate.

7. For combining with any other or others of the crew to disobey lawful commands, or to neglect duty, or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Conspiracy.

8. For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the Court, to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Embezzlement of cargo.

9. For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the master or owner, he shall be liable to pay to such master or owner such a sum as is sufficient to reimburse the master or owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.

Smuggling.

LXXXIV. Upon the commission of any of the offences enumerated in the last preceding Section, an entry thereof shall be made in the official log-book, and shall be signed by the master and also by the mate or one of the crew; and the offender, if still in the ship, shall, before the next subsequent arrival of the ship at any port, or, if she is at the time in port before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has

Entry of offences to be made in official log, and to be read over, or a copy given to the offender; and his reply, if any, to be also entered.

been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any subsequent legal proceeding, the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the Court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seaman whom masters of ships are compelled to convey and persons going in ships without leave, to be subject to penalties for breach of discipline

LXXXV. Every seafaring person whom the master of any ship is, under the authority of this Act or any law, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishment for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Master or owner &c. may apprehend deserters without warrant.

LXXXVI. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join, or deserts from or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of Police Officers who are hereby directed to give the same if required, apprehend him without first procuring a warrant; and thereupon in any case, and shall, in case he so requires and it is practicable, convey him before some Court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such Court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may, if he does not so require, or if there is no such Court at or near the place, at once convey him on board; and, if any such apprehension appears to the Court before which the case is brought, to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or

consignee, who makes the same or causes the same to be made, shall incur a penalty not exceeding two hundred Rupees; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

LXXXVII. Whenever any seaman or apprentice is brought before any Court on the ground of his having neglected or refused to join, or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such Court may, if the master or the owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the master or owner by reason of the offence, to be paid by the offender, and if necessary to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Deserters may be sent on board in lieu of being imprisoned.

LXXXVIII. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join, or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the master or any mate of the ship or to the owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

Seamen imprisoned for breach of discipline may be sent on board before termination of sentence

LXXXIX. In all cases of desertion from any ship registered at a port or place in India while such ship is at

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.



any place out of India, the master shall produce the entry of such desertion in the official log-book to the person or persons required by the Merchant Shipping Act 1854 to endorse on the agreement a Certificate of such Desertion; and such person or persons shall thereupon make and certify a copy of such entry, and also a copy of the said Certificate of Desertion; the master shall forthwith transmit such copies to the Shipping Master at the port where such seaman was engaged, who shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion be received as evidence of the entries therein appearing.

Facilities for proving desertion so far as concerns forfeiture of wages

XU. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate at any port or place in India, and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log-book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper Certificate of Discharge, or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

Cost of procuring imprisonment may, to the extent of 50 Rupees, be deducted from wages.

XCI. Whenever in any proceeding relating to seamen's wages it is shown, that any seaman or apprentice has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefore by imprisonment or otherwise, the Court hearing the case may direct a part of the wages due to such seaman, not exceeding thirty Rupees, to be applied in reimbursing any costs proper-

ly incurred by the master in procuring such conviction and punishment.

XCII. Whenever any seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as the period hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Amount of forfeiture how to be ascertained when seamen contract for the voyage, &c.

XCIII. All clothes, effects, wages, and emoluments which under the provisions hereinbefore contained are forfeited for desertion, shall be applied in the first instance in or towards the reimbursement of the expenses occasioned by such desertion to the master or owner of the ship from which the desertion has taken place, and may, if earned subsequently to the desertion, be recovered by such master or by the owner or his agent in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages, the Court may order the same to be paid accordingly; and, subject to such reimbursement, the same shall be paid into the Public Treasury and carried to the account of Government; and in all other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the master or owner by whom the wages are payable.

Application of forfeitures.

XCIV. Any question concerning the forfeiture of or deductions from the wages of any seaman or apprentice may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though

Questions of forfeitures may be decided in suits for wage

hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any Criminal proceeding.

Penalty for false statement as to last ship or name.

XCV. If any seaman, on or before being engaged, wilfully and fraudulently makes a false statement of the name of his last ship, or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty, not exceeding fifty Rupees, and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to reimbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.

Fines to be deducted from wages and paid to Shipping Master.

XCVI. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log-book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act, and such fine shall be deducted and paid over as follows (that is to say), if the offender is discharged at any port or place in India, and the offence and such entries in respect thereof as aforesaid, are proved, in the case of a Foreign-going ship to the satisfaction of the Shipping Master before whom the offender is discharged and in the case a Home-trade ship to the satisfaction of the Shipping Master at or nearest to the place at which the crew is discharged, the master or owner shall deduct such fine from the wages of the offender and pay the same over to such Shipping Master; and if before the final discharge of the crew in India, any such offender as aforesaid enters into any of Her Majesty's ships or is discharged at any place not in India, and the offence and such entries as aforesaid are proved to the satisfaction of the Officer in command of the

ship into which he so enters or of the Consular Officer of Customs, or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such Officer or other person; and on the return of the ship to India, the master or owner shall pay over such fine, in the case of Foreign-going ships to the Shipping Master before whom the crew is discharged, and in the case of Home-trade ships to the Shipping Master at or nearest to the place at which the crew is discharged; and if any master or owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine retained by him: Provided that no act of misconduct for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Act.

XCVII. Every person who by any means whatever persuades or attempts to persuade any seaman or apprentice to neglect or refuse to join or proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each such offence in respect of each such seaman or apprentice incur a penalty not exceeding One Hundred Rupees; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship, or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted, incur a penalty not exceeding One Hundred Rupees.

XCVIII. Any person who secretes himself and goes to sea in any ship without the consent of either the owner, consignee, or master, or of a mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding Two Hundred Rupees, or be liable to imprisonment, with or without hard labor, for any period not exceeding four weeks.

Penalty for enticing to desert and harbouring deserters.

Penalty for obtaining passage surreptitiously.

On charge of masters, documents to be handed over to successor.

XCIX. If during the progress of a voyage the master of any ship registered at any port or place in India is superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof, which are in his custody ; and shall in default incur a penalty not exceeding One Thousand Rupees ; and such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

#### ENQUIRIES INTO WRECKS.

Enquiry may be instituted in cases of wreck and casualty

C. In any of the cases following (that is to say)—

Whenever any ship is lost, abandoned, or materially damaged on or near the coasts of India ;

Whenever any ship causes loss or material damage to any other ship on or near such coasts ;

Whenever, by reason of any casualty happening to or on board of any ship on or near such coasts, loss of life ensues ;

Whenever any such loss, abandonment, damage, or casualty happens elsewhere to or on board any ship registered at any port or place in India, under the Merchant Shipping Act 1854 or under Act X of 1841—

It shall be the duty of any European Civil Officer of Government residing at or near the place where such loss, abandonment, damage, or casualty occurred if the same occurred in India, but if elsewhere, at or near the place where such witnesses as aforesaid arrive or are found, to give notice of the same to the local Government. It shall be lawful for the local Government, whether such notice be given or not, if a formal investigation appears to it to be requisite or expedient, to appoint two persons to make the same. The investigation shall be held at such place as the local Government shall deem best for the convenient examination of the witnesses. One of the persons to be so appointed shall be a Magistrate acting in or near the place where the investigation is held : the other may be any person conversant with maritime affairs.

CI. The person appointed shall proceed to make the investigation, and shall for that purpose, so far as relates to compelling the attendance of witnesses and the regulation of the proceedings, have the same powers as if the same were a proceeding relating to an offence or cause of complaint upon which such Magistrate has power to convict summarily, or as near thereto as circumstances admit.

**Investigation.**

CII. Upon the conclusion of the case the persons appointed to investigate shall send a report to the local Government, containing a full statement of the case and of their opinion thereon, accompanied by such report of or extracts from the evidence and such observations (if any) as they may think fit.

**Report.**

#### OFFICIAL LOGS

CIII. An official log-book of every ship registered at any port or place in India, except Home-trade ships of a burden not exceeding three hundred tons, shall be kept in a form sanctioned by the local Government; and such official log may, at the discretion of the master or owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

**Official logs to be kept in forms sanctioned by local Government.**

CIV. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates shall be made and dated so as to show the date of the occurrence, and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final Port of discharge be made more than twenty-four hours after such arrival.

**Entries to be made in due time**

CV. Every master of a ship for which an official log-book is hereby required shall make or cause to be made therein entries of the following matters, (that is to say)—

**Entries required in official log**

1. Every legal conviction of any member of his crew and the punishment inflicted:

2. Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry and concerning the reply (if any) made to the charge, as hereinbefore required :

3. Every offence for which punishment is inflicted on board and the punishment inflicted :

4. A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars :

5. Every case of illness or injury happening to any member of the crew with the nature thereof, and the medical treatment adopted (if any) :

6. Every case of death happening on board, and the cause thereof :

7. Every birth happening on board with the sex of the infant and the names of the parents :

8. Every marriage taking place on board with the names and ages of the parties :

9. The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof :

10. The amount of wages due to any seaman who enters Her Majesty's service during the voyage :

11. The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom :

12. The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it :

13. Every collision with any other ship and the circumstances under which the same occurred.

Entries how to  
be signed.

CVI. The entries hereby required to be made in official log-books shall be signed as follows, (that is to say), every such entry shall be signed by the master and by the mate or some other of the crew, and every entry of illness, injury, death, or birth shall be also signed by the surgeon or

medical practitioner on board (if any); and every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies, shall be signed by the master and by the mate and some other member of the crew, and every entry of wages due to any seaman who enters Her Majesty's service shall be signed by the master and by the seaman, or by the officer authorized to receive the seaman into such service.

**CVII.** The following offences in respect of official log-books shall be punishable as hereinafter mentioned, (that is to say)—

**Penalties in respect of official logs.**

1. If in any case an official log-book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log-book is not made at the time and in the manner hereby directed, the master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding fifty Rupees.

2. Every person who makes or procures to be made or assists in making any entry in an official log-book, in respect of any occurrence happening previously to the arrival of the ship at her final port of discharge in India, more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding Three Hundred Rupees.

3. Every person who wilfully destroys or mutilates or renders illegible an entry in any official log-book, or who wilfully makes, or procures to be made or assists in making, any false or fraudulent entry or omission in any such log-book, shall for each such offence be liable to imprisonment, with or without hard labor, for a term not exceeding one year.

**CVIII.** All entries made in any official log-book as hereinbefore directed shall be received in evidence in any proceeding in any Court of Justice, subject to all just exceptions.

**Entries in official logs to be received in evidence.**

**CIX.** The master of every Foreign-going ship shall, within forty-eight hours after the ship's arrival at her final

**Official logs to be delivered to Shipping Master**



on ship's arrival  
at port of desti-  
nation in India

port of destination in India, or upon the discharge of the crew, whichever first happens, deliver to the Shipping Master before whom the crew is discharged, the official log-book of the voyage; and the master or owner of every Home-trade ship of a burden exceeding three hundred tons shall, within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, transmit or deliver to some Shipping Master in India the official log-book for the preceding half year; and every master or owner who refuses or neglects to deliver his official log-book, as hereby required, shall be subject to a penalty not exceeding Two Hundred Rupees.

Official logs to  
be transmitted  
to Shipping Master  
in case of  
transfer of ship  
and in case of  
loss.

CX. If any ship ceases, by reason of transfer of ownership or change of employment, to fall within the operation of Section CIII of this Act, the master or owner thereof shall, if such ship is then in any port in India, within one month, and if she is elsewhere, within six months, deliver or transmit to the Shipping Master at the port to which the ship belonged, the official log book duly made out to the time at which she ceased to be within such operation, and in default shall for each offence incur a penalty not exceeding One Hundred Rupees, and if any ship is lost or abandoned, the master or owner thereof, shall, if practicable, and as soon as possible, deliver or transmit to the Shipping Master at the port to which the ship belonged, the official log-book (if any) duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding One Hundred Rupees.

#### PROCEDURE, &c.

Depositions to  
be received in  
evidence, when  
witnesses cannot  
be produced.  
Proviso

CXI. Whenever, in the course of any legal proceedings instituted at any port or place in India before any Judge or Magistrate or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of such proceeding, any deposition that such witness may have previously made in relation to the same subject matter before

any Justice or Magistrate in Her Majesty's Dominions (including all parts of India other than those subject to the same local Government as the port or place where such proceedings are instituted), or any British Consular Officer elsewhere, shall, if authenticated by the signature of the Justice, Magistrate, or Consular Officer, be admissible in evidence on due proof that such witness cannot be found within the jurisdiction of the Court in which such proceedings are instituted. Provided that, if the proceeding is Criminal, such deposition shall not be admissible, unless it was made in the presence of the person accused and the fact that it was so made is certified by the Justice, Magistrate, or Consular Officer. It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any Criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

CXII. All offences under this Act, made punishable by any penalty, may be prosecuted summarily before a Magistrate or any person exercising the powers of a Magistrate. The provisions of Act XIII of 1856, relating to the adjudication of fines and penalties and the enforcing payment thereof, shall apply to penalties imposed under this Act in the Towns of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Island, Singapore, and Malacca.

CXIII. In all cases where any Court or Magistrate has power to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then if the party so directed to pay the same is the master or owner of a ship and the same is not paid at the time and in manner prescribed in the order, the Court or Magistrate who made the order may, in addition to any other powers which such Court or Magistrate may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.

Adjudication  
of offences and  
recovery of pe-  
nalties.

Wages, penal-  
ties, &c., payable  
by master or  
owner may be  
levied distress of  
ship.

## MISCELLANEOUS.

Act not to extend to ships belonging to Her Majesty or to any Foreign Prince or State Or (except certain Sections) to ships belonging to the subjects of any Foreign Prince or State.

Engagements between masters of Foreign ships and lascars

CXIV. Nothing in this Act shall extend to any ship belonging to or in the service of Her Majesty, or to any ship belonging to any Foreign Prince or State; and nothing in this Act, except as otherwise hereinafter provided, shall extend to any ship belonging to the subjects of any Foreign Prince or State.

CXV. When the master of a Foreign ship, being at any Port in India, engages any lascar or other native seaman to proceed to any Port out of India, he shall enter into an agreement with such seaman, and the agreement shall be made before a Shipping Master in the manner hereinbefore provided for the making of agreements in the case of Foreign-going ships, and all the provisions of Sections XXI and XXII of this Act, respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman; and the master of such Foreign ship shall give to the Shipping Master a bond with the security of some approved person resident in India for an amount calculated at the rate of One Hundred Rupees for every such seaman and conditioned for the due performance of the said agreement and stipulations.

Fees payable in respect of such engagements.

CXVI. The fees prescribed in Section VI of this Act shall be payable in respect of every such engagement, and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed by the said Section.

Penalty for master of Foreign ship engaging native seaman otherwise than as above. Shipping Master may board Foreign ships suspected of unlawfully shipping native seamen.

CXVII. If any lascar or other native seaman is engaged by the master of any Foreign ship otherwise than is allowed in the two last preceding Sections, such master shall be liable to a penalty of One Hundred Rupees for every such seaman so engaged. It shall be lawful for the Shipping Master, by himself or his deputy, to enter on board any Foreign ship upon which he shall have reason to believe that any such seaman has been shipped, and the provisions of Section XXX

of this Act shall be applicable in respect of every such ship.

CXVIII The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be some thing in the subject or context repugnant to such construction, (that is say), the word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic c 106, entitled "An Act for the better Government of India", the expression "local Government" shall mean the person or persons for the time being immediately administering the Executive Government of any portion of the said territories. The expression "Home-trade ship" shall include every ship employed in trading between any ports of the said territories or between any port of the said territories and any port or place on the Continent of India or in the Island of Ceylon. The expression "Foreign-going ship" shall include every ship employed in trading between any port of the said territories and any port or place not in the said territories, nor on the Continent of India, nor in the Island of Ceylon. The word "master" shall include every person (except a Pilot) having command or charge of any ship. The word "seaman" shall include every person (except masters, pilots, and apprentices) employed or engaged in any capacity on board any ship. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number. Words importing the masculine gender shall include females. The word "person" shall include a corporation

Interpretation,  
"India," "Local  
Government"  
"Home-trade  
ship" "Foreign-  
going ship"  
"Master" "Sea-  
man"

TABLE A. (*See Section V.*)

Fees to be charged for matters transacted at Shipping Offices.

1. Engagement or discharge of crews.

|                |       |          | Rs. As. P. |   |   |
|----------------|-------|----------|------------|---|---|
| In Ships under | 100   | Tons ... | 3          | 0 | 0 |
| From 100 to    | 200   | „ ...    | 7          | 0 | 0 |
| 200 to         | 300   | „ ...    | 10         | 0 | 0 |
| 300 to         | 400   | „ ...    | 12         | 8 | 0 |
| 400 to         | 500   | „ ...    | 15         | 0 | 0 |
| 500 to         | 600   | „ ...    | 17         | 8 | 0 |
| 600 to         | 700   | „ ...    | 20         | 0 | 0 |
| 700 to         | 800   | „ ...    | 22         | 8 | 0 |
| 800 to         | 900   | „ ...    | 25         | 0 | 0 |
| 900 to         | 1,000 | „ ...    | 27         | 8 | 0 |
| above          | 1,000 | „ ...    | 30         | 0 | 0 |

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two Rupees and eight annas.

2. Engagement or discharge of seamen separately, one Rupee for each seaman.

TABLE B. (*See Section VI.*)

Sums to be deducted from wages by way of partial repayment of fees in Table A.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge.

|                                                                              | Rs. | As. | P. |
|------------------------------------------------------------------------------|-----|-----|----|
| From wages of any Mate, Purser, Engineer, Surgeon, Carpenter, or Steward ... | 0   | 12  | 0  |
| From wages of all others except apprentices...                               | 0   | 8   | 0  |

2. In respect of engagements and discharges of seamen, separately, upon each engagement and each discharge ... 0 8 0

## ACT NO. II OF 1859.

MADRAS.

1. *Time limited for filing particulars of claim, when declaration has been filed.*
2. *If particulars be insufficient, Court on application may order further particulars to be filed within a specified time.*
3. *If particulars be not filed within the time limited, claimant to be barred from proceeding.*
4. *Time limited for filing documents to be used in support of claim.*
5. *Memorandum to be made on particulars of claim or documents, of the date when they are filed*
6. *Solicitor to Government may examine and take copies of particulars, &c.*
7. *No document to be received in evidence in support of claim, unless filed as required by this Act. Claimants to be bound by particulars filed.*
8. *If particulars of claim are filed under this Act, particulars under Act XXX of 1858 not necessary*
9. *Supreme Court to appoint a day for ascertaining the amount due to any person who has filed a declaration under Act XXX of 1858.*
10. *Proceedings, if claimant appear on day fixed.*
11. *Proceedings, if claimant do not appear on day fixed.*

An Act to amend Act XXX of 1858 (to provide for the administration of the estate, and for the payment of the debts of the late Nabob of the Carnatic.

WHEREAS, in pursuance of the provisions of Section XIV of Act XXX of 1858, numerous declarations were filed in the office of the Registrar of the Supreme Court of Judicature at Madras, within three months from the passing of the Act, by persons claiming to be creditors of the late Nabob of the Carnatic, but as yet, with very few exceptions, such persons have not made any application to the Court under the provisions of Section XIX of the said Act, to appoint a day for ascertaining the amount of their debts, or furnished any particulars of their claims; and whereas, since the passing of the said Act, two of the seals formerly belonging to the said Nabob have been unlawfully taken away by some person or persons unknown and there is reason to

believe that they have been feloniously stolen, and it is necessary, in order to guard against fraud, to limit the time within which particulars of the said claims shall be furnished, and to require all documents intended to be used in support thereof to be filed, and also to enable the Court upon the application of the Government of Madras to fix a day for the investigation of any of the said claims: It is enacted as follows:—

Time limited for filing particulars of claim, when declaration has been filed.

I. Every person who has filed a declaration under the provisions of Section XIV of the said Act shall file, in the office of the Registrar of the Supreme Court at Madras, full particulars of his claim with dates and items, within one week after the publication of this Act in the Fort Saint George Gazette, or within such time, not exceeding one month after such publication, as may be allowed by the said Court or a Judge thereof, for any special reason which may appear to the said Court or Judge to be sufficient.

Court on application may order further particulars to be filed within a specified time.

II. If the particulars filed as above provided be insufficient, the said Court or a Judge thereof may, upon an application on the part of Government, make an order for the filing, within a time to be specified in such order, of such further particulars as the said Court or Judge may consider necessary.

If particulars be not filed within the time limited, claimant to be barred from proceeding.

III. If the particulars be not filed within the time limited by Section I of this Act—or in the case of an order for further particulars under Section II of this Act, if such further particulars be not filed within the time limited by the order—the said Court or a Judge thereof, upon an application on behalf of Government, shall make an order barring the claimant from proceeding under Section XIV or any subsequent Section of Act XXX of 1858, and from the benefits of the provisions of Section XXV of the said Act; and in such case the claimant shall not be entitled to proceed under Section XIV or any subsequent Section of the said Act, or to be paid under the provisions of Section XXV of the said Act.

IV. Every person who has filed a declaration under the provisions of Section XIV of the said Act shall file, in the office of the Registrar of the said Court, all documents intended to be used on the investigation in support of his claim (whether the same are intended to be used as independent or corroborative evidence or otherwise) within one week after the publication of this Act in the Fort Saint George Gazette, or within such time, not exceeding one month from the time of such publication, as may be allowed by the said Court, or a Judge thereof, for any special reason which may appear to the said Court or Judge to be sufficient.

Time limited  
for filing docu-  
ments in support  
of claim.

V. Whenever the particulars of a claim or any document is filed under the provisions of this Act, a memorandum shall be made thereon of the date on which the same is filed.

Memorandum  
to be made of the  
date of filing.

VI. The Solicitor to Government, and such other persons as may be authorized by him, may examine and take copies of the particulars of any claim or of any document filed under the provisions of this Act.

Solicitor to Gov-  
ernment may  
take copies of  
particulars, &c.

VII. No document shall be admitted in evidence in support of any claim, or used by the claimant upon the investigation thereof under Section XXII of the said Act, unless the same shall have been filed in the manner and within the time required by this Act; and upon every investigation under Section XXII of the said Act, the claimant shall be bound by the particulars of his claim, in the same manner and to the same extent as a plaintiff is bound by the particulars of his demand in an action brought in the said Court.

No document to  
be received in evi-  
dence, unless filed  
as required.  
Claimants to be  
bound by parti-  
culars filed.

VIII. Whenever particulars of a claim shall have been filed under the provisions of this Act, it shall not be necessary for the claimant to furnish particulars under Section XX of the said Act.

If filed under  
this Act, particu-  
lars under Act  
XXX of 1858 not  
necessary.

IX. The Supreme Court of Judicature at Madras or a Judge thereof may, upon application on behalf of the Go-

Court to ap-  
point a day for  
ascertaining the



amount due to any declarant under Act XXX of 1858.

vernment of Madras, appoint a day for ascertaining the amount due to any of the persons who have filed a declaration under Section XIV of the said Act, and in such case notice of the day so appointed shall be given to the claimant. The day so appointed shall not be less than twenty-one days from the time when the said application shall be made.

Proceedings, if claimant appear on day fixed.

X. If the claimant shall appear on the day so fixed, or on any other day to which the Court may think fit to postpone the investigation, all such proceedings shall be had for ascertaining and determining the amount due to the claimant, and for payment of the amount so ascertained, as if the day for ascertaining the amount of the debt had been appointed upon the application of the claimant under Section XIX of the said Act, except that it shall not be necessary for the claimant to furnish particulars under Section XX of the said Act.

Proceedings, if claimant do not appear on day fixed.

XI. If the claimant do not appear on the day fixed as provided by Section IX of this Act, or upon the day to which the Court may postpone the investigation, the Court, upon proof of service of the notice required by Section IX of this Act, shall make an order barring the claimant from proceeding under Section XIV or any subsequent Section of Act XXX of 1858 and from the benefit of the provisions of Section XXV of the said Act; and in such case the claimant shall not be entitled to proceed under Section XIV or any subsequent Section of the said Act, or to be paid under the provisions of Section XXV of the said Act, unless within one week from such day, or within such time as the said Court or a Judge thereof shall appoint for investigating the excuse for not appearing, the Court shall be satisfied that he had a reasonable excuse for not appearing and shall fix another day for the hearing of his claim.

## ACT NO. III OF 1859.

GENERAL.

*(Received the assent of the Governor General on the 25th January 1859.)*

1. *Executive Government may invest Cantonment Joint Magistrates with Civil jurisdiction in certain cases.*

2. *Part of Act XI of 1841 suspended in Cantonments where Joint Magistrates are so invested with Civil jurisdiction.*

3. *Also, the Rules in force in the Madras and Bombay Presidencies for the trial of small suits in Military Bazaars.*

4. *Persons amenable to the Articles of War for the Native Army, to be sued before Cantonment Joint Magistrates invested with Civil jurisdiction, and not elsewhere.*

5. *Saving of Rules in force in the Madras Presidency for the trial by Panchayet of suits against Military persons.*

6. *Trader not to recover any debt unless registered as a Military Bazar-man.*

7. *Procedure in cases under this Act. No revision or appeal. Execution of decrees.*

8. *Compensation may be awarded to a defendant, if suit be groundless and instituted without probable cause.*

9. *Cantonment Joint Magistrates may be appointed Registers of Deeds, within the limits of their jurisdiction.*

10. *Rules applicable to Registers of Deeds to be applicable to Cantonment Joint Magistrates appointed Registers.*

11. *Oaths of Office.*

An Act for conferring Civil Jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds.

WHEREAS it is expedient that Cantonment Joint Magistrates should be invested with Civil jurisdiction in certain cases within the local limits of their Criminal jurisdiction, and that they should also be appointed Registers of Deeds within the same limits; It is enacted as follows:—

1. It shall be competent to the Governor General in Council, and to the Executive Government of any Presidency or place, to invest the Joint Magistrate of any Military Cantonment Bazar or Station, within the limits of their respective Governments, with Civil jurisdiction. Every Joint Magistrate so invested shall have power to hear and determine actions of debt and other personal actions, in which

Government  
may invest Can-  
tonment Joint  
Magistrates with  
Civil jurisdiction  
in certain cases.

the value in question shall not exceed the sum of two hundred Rupees, and which shall not involve any dispute of caste or any right of real property, against any person who at the time when the cause of action arose, and at the time of the institution of the suit, shall have been or shall be subject to the Articles of War for the Native Army, or residing or carrying on trade or business within the limits of such Military Cantonment Bazar or Station, and not subject to any Articles of War made by Her Majesty.

Part of Act XI of 1841 suspended. Joint Magistrates are invested with Civil jurisdiction.

II. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be invested with Civil jurisdiction under the provisions of the preceding Section, and so long as he shall remain so invested, so much of Act XI of 1841, as authorizes the Commanding Officers of Stations or Cantonments to convene Military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall be suspended within the limits of such Cantonment Bazar or Station.

Also the Rules for trial of small suits in Military Bazaars.

III. Whenever in either of the Presidencies of Madras or Bombay an Officer shall be invested with Civil jurisdiction as aforesaid, and so long as he shall remain so invested, the Rules for the trial of small suits in Military Bazaars at Cantonments and Stations occupied by the Troops of those Presidencies respectively shall cease to have effect within the jurisdiction of such Officer.

Persons amenable to the Articles of War, to be sued only before Cantonment Joint Magistrates.

IV. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be invested with Civil jurisdiction under the provisions of this Act, no person amenable to the Articles of War for the Native Army, who may be liable to be sued before such Joint Magistrate for any cause of action cognizable by him, shall be sued elsewhere.

Saving of Rules in Madras Presidency for trial of suits by Panchayets.

V. Provided that, nothing in the preceding Sections shall be held to alter or affect the Rules in force in the Madras Presidency for the trial by Panchayet of suits against Military persons belonging to that Presidency. •

VI. No person carrying on trade or business within the limits of any Military Cantonment, or who shall have carried on trade or business within any such limits, shall be allowed to recover in any Court held under this Act any debt contracted, in the way of such trade or business or the loan of money within any such Cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting the same, have been registered as a Military Bazar-man within such Cantonment.

Trader not to recover any debt, unless registered as a Military Bazar-man.

VII. In cases instituted under the provisions of this Act, the plaintiff shall prefer his claim in writing to the Court of the Joint Magistrate having jurisdiction over the same, and if the defendant be a Native Officer or Soldier or a mustered Camp Follower, the summons to appear and answer to the claim shall be transmitted, for the purpose of being served on the defendant, to the Commanding Officer of the Corps or Detachment to which such defendant may belong; and the Commanding Officer shall return the summons to the Joint Magistrate, with the acknowledgment of the defendant endorsed thereon; or if the summons cannot be served, the reason of the non-service shall be stated. In other respects the rules of procedure and all other rules contained in Act XI of 1841 (*for consolidating and amending the Regulations concerning Military Courts of Requests for Native Officers and Soldiers in the service of the East India Company*) shall be applicable to such cases, and to the execution of the decrees passed therein, so far as the same are applicable: Provided, that the decisions of the Joint Magistrate in cases cognizable by him under this Act shall not be open to revision or appeal; And provided further, that it shall not be necessary to publish in Station Orders the decrees passed in such cases before they are carried into execution, and the Joint Magistrate passing the decree shall determine whether the execution shall be general or special, and shall proceed of his own authority with the execution.

Procedure in cases under this Act.

No revision appeal.

Execution of Decrees.

Compensation  
to defendant if  
suit be ground-  
less.

VIII. If the claim of the plaintiff be dismissed, and it shall appear to the Joint Magistrate that the suit was groundless, and that there was no probable cause for instituting the same, it shall be competent to such Joint Magistrate, to award against the plaintiff in favor of the defendant, such sum as he may consider a reasonable compensation to the defendant for the loss of time and expense to which he may have been subjected by the institution of the suit against him, and to proceed to recover the amount so awarded under the rules applicable to execution of decrees passed under this Act.

Cantonment  
Joint Magis-  
trates may be ap-  
pointed Registers  
of Deeds.

IX. It shall further be lawful for the Governor General in Council or for the Executive Government of any Presidency or place, to appoint the Joint Magistrate of any Military Cantonment Bazar or Station, subject to their respective Governments, Register of Deeds within the limits of such Cantonment Bazar or Station; and when such appointment is made, and so long as it shall continue in force, the powers of the Register of Deeds of the Zillah or District in which such Cantonment Bazar or Station is situate, shall be suspended within the limits thereof.

And to be then  
subject to the  
same rules as  
other Registers of  
Deeds.

X. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be appointed Register of Deeds under this Act, all Rules for the time being in force applicable to Registers of Deeds, shall be applicable to such Joint Magistrate and to the deeds registered by him, or brought to him for registry.

Oath of Office.

XI. Every Joint Magistrate who shall be invested with Civil jurisdiction, or who shall be appointed Register of Deeds under the provisions of this Act, shall, previously to entering upon the performance of his duties, make and subscribe before the Chief Civil Officer, or, where there may be no Civil Officer, before the Chief Military Officer of the District or Zillah in which such Cantonment Bazar or Station is situate, the oaths required by law to be made and subscribed by Civil Judges and Registers of Deeds respectively, or the declarations substituted for such oaths.

ACT No. IV. OF 1859,  
EXPIRED.

ACT No. V OF 1859.

BENGAL.

(Received the assent of the Governor General on the 4th March 1859.)

1. *Ghatwals of Beerbhoom to have the same right of granting leases as is allowed to other proprietors of lands. Proviso.*

2. *Court of Wards and Revenue authorities to have the like power in certain cases.*

An Act to empower the holders of Ghatwalee lands in the Districts of Beerbhoom to grant leases extending beyond the period of their own possession.

WHEREAS it has been held that the Ghatwals of the District of Beerbhoom who pay the revenue of their lands directly to Government under the provisions of Regulation XXIX. 1814 of the Bengal Code have not the power of alienating their lands; and whereas, for the development of the mineral resources of the country in which the said Ghatwalee lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession, should in certain cases be extended to the possessors of such lands; It is enacted as follows:—

I. Ghatwals, holding lands in the District of Beerbhoom under the provisions of the aforesaid Regulation, shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures, as is allowed by law to the proprietors of other lands. Provided, that no lease of Ghatwalee lands for any period extending beyond the life-time or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines, or for the clearing of jungle, or for the erection of dwelling houses or manufactories, or for tanks, canals, and similar works, and shall be approved by the Commissioner of the Division, such approval being cer-

tified by an endorsement on the lease under the signature of the Commissioner.

II. If any of the said Ghatwalee lands be at any time under the superintendence of the Court of Wards, or otherwise subject to the direct control of the officers of Government, it shall be lawful for the Court of Wards or the Commissioner to grant leases for any such purpose as aforesaid; and every lease so granted shall be valid and binding on all future possessors of the said lands, anything in the existing law to the contrary notwithstanding.

#### ACT No. VI OF 1859.

**BOMBAY**

*(Received the assent of the Governor General on the 14th March 1859)*

1. *Governor in Council empowered to appoint a Magistrate for the Districts mentioned in Schedule Powers of Magistrate. Exemption of Districts from jurisdiction of the Magistrate of Ahmedabad. Assistants to the Magistrate.*

2. *Jurisdiction of the Session Judge of Ahmedabad and the Sudder Court.*

An Act to empower the Governor of Bombay in Council to appoint a Magistrate for certain Districts within the Zillah Ahmedabad.

WHEREAS it is expedient to provide specially for the Criminal and Police Administration of such portions of the Zillah Ahmedabad as are mentioned in the Schedule to this Act; It is enacted as follows:—

I. It shall be lawful for the Governor of Bombay in Council to appoint a Magistrate for the Districts mentioned in the Schedule to this Act; and such Magistrate, when so appointed, shall exercise within the said Districts all the powers of a Magistrate as defined in the general Regulations of the Bombay Code and the Acts of the Legislative Council. Upon the appointment of a Magistrate under this Act, the said Districts shall be exempt from the jurisdiction of the Magistrate of Ahmedabad. It shall also be lawful for the said Governor in Council to appoint so many Assistants to the said Magistrate as may be required.

II. Nothing contained in the preceding Section shall be held to remove the said Districts from the jurisdiction of the Session Judge of Ahmedabad or of the Sudder Fouzdaree Adawlut.

### SCHEDULE OF DISTRICTS.

[See Section I.]

#### *Names of Villages under the Gogo Pergunnah:*

|    |                    |    |             |    |             |
|----|--------------------|----|-------------|----|-------------|
| 1  | Blownmuggur itself | 26 | Bupera      | 51 | Ghamphur    |
| 2  | Joona Wadwa        | 27 | Punchpupha  | 52 | Nesur       |
| 3  | Rorha              | 28 | Ruppor 1st. |    | Ruppor 2nd. |
| 4  | Ukwaru             | 29 | Beete       | 53 | Khidm       |
| 5  | Udhwara            | 30 | Riyallu     | 54 | Kud         |
| 6  | Turumya            | 31 | Warte       | 55 | Nur         |
| 7  | Munka              | 32 | Theolur     | 56 | Bohel       |
| 8  | Bhooshan           | 33 | Sondwadi    | 57 | Kel         |
| 9  | Bhoobhale          | 34 | Phurtha     | 58 | Bhucc       |
| 10 | Ruttampoor Joona   | 35 | Seelur      | 59 | Bhur 1st.   |
| 11 | Ruttampoor Nera    | 36 | Karmur      | 60 | Bhur 2nd.   |
| 12 | Goondhee           | 37 | Pechur      | 61 | Sambur      |
| 13 | Kolik              | 38 | Shamur      | 62 | Bhur        |
| 14 | Hath               | 39 | Shuchur     | 63 | Nur 1st.    |
| 15 | Khandul            | 40 | Gosur       | 64 | Sampur      |
| 16 | Bhadbhadi          | 41 | Sookur Mot. | 65 | Wur         |
| 17 | Alapoor            | 42 | Aptur       | 66 | Lur         |
| 18 | Dhulur             | 43 | Lur         | 67 | Lur         |
| 19 | Lakur              | 44 | Khur        | 68 | Sur         |
| 20 | Khandupoor         | 45 | Lur         | 69 | Shur        |
|    | Meeteccodee        | 46 | Dur         | 70 | Lur         |
| 21 | Lur                | 47 | Ruttampoor  | 71 | Bhur        |
| 22 | Mur                |    | Lur         | 72 | Bhur        |
| 23 | Sonshur            | 48 | Wur         | 73 | Lur         |
| 24 | Pur                | 49 | Wur         | 74 | Lur         |
|    | Lur                | 50 | Mur         | 75 | Lur         |

#### *Names of Villages under the Dhumdooka Pergunnah*

|    |            |    |        |    |      |
|----|------------|----|--------|----|------|
| 1  | Patna      | 14 | Patna  | 27 | Shur |
| 2  | Blurbheer  | 15 | Karmur | 28 | Dur  |
| 3  | Chukumpoor | 16 | Bhur   | 29 | Wur  |
| 4  | Ruttanw    | 17 | Sundur | 30 | Lur  |
| 5  | Kur        | 18 | Lur    | 31 | Mur  |
| 6  | Jur        | 19 | Kur    | 32 | Dur  |
| 7  | Sundur     | 20 | Wur    | 33 | Wur  |
| 8  | Kur        | 21 | Sundur | 34 | Wur  |
| 9  | Lur        | 22 | Wur    | 35 | Wur  |
| 10 | Sur        |    | Lur    | 36 | Wur  |
| 11 | Shur       |    | Nur    | 37 | Wur  |

#### *Names of Villages under the Rampoor Pergunnah.*

|   |          |   |         |   |     |
|---|----------|---|---------|---|-----|
| 1 | Botur    | 4 | Dur     | 7 | Kur |
| 2 | Mur      | 5 | Kur     | 8 | Rur |
| 3 | Seerwara | 6 | Toorkur | 9 | Jur |



## GENERAL.

## ACT NO. VII OF 1859.

(Received the assent of the Governor General on the 14th March 1859.)

1. *Portions of Acts, &c., repealed.*
2. *Provisions of certain Acts to have reference to Schedules annexed to this Act. Proviso.*
3. *Exception.*
4. *Contracts or agreements already made.*
5. *When this Act shall take effect. Indemnity to Collectors.*

An Act to alter the Duties of Customs on goods imported or exported by sea.

Portions of  
Acts, &c., re-  
pealed.

I. From and after the 12th day of March 1859 inclusive, so much of Schedules A and B annexed to Act XIV of 1836 (*for the levy of Duties on imports and exports by sea in the Bengal Presidency*), so much of Schedules A and B annexed to Act VI of 1844 (*for revising the duties on imports and exports by sea in the Presidency of Fort St. George*), so much of the Schedule annexed to Act IX of 1845 (*for amending the Schedules of import duties*), so much of Schedules A and B annexed to Act I of 1852 (*for the consolidation and amendment of the laws relating to the Customs under the Presidency of Bombay*), and so much of Sections II, III, and IV, Act XXX of 1854 (*for the levy of duties of Customs in the Arracan, Pegu, Martaban, and Tenasserim Provinces*), as prescribe the rates of duty to be charged on goods imported into or exported from any Port in India by sea, except the articles of Salt and Opium—are repealed.

Provisions of  
certain Acts to  
have reference  
to Schedules an-  
nexed to this  
Act  
Proviso.

II. From and after the 12th day of March 1859 inclusive, all the provisions now in force of the abovementioned Acts, which have reference to the duties of Customs now charged and leviable on goods imported into or exported from any Port in India by sea, shall be taken to have reference to the duties of Customs prescribed in the Schedules\* annexed

\*Schedules A and B of this Act (and of Act X, 1860, modifying this Act) have been repealed by Act XI, 1862, which has substituted for them other Schedules. These will be found annexed to Act X, 1860, the latter Act not being within the scope of this publication.

to this Act ; Provided, that nothing in this Act shall authorize the levy of duties of Sea Customs at any free port, or be deemed to affect the provisions of Acts VI and VII of 1848.

III. Nothing in this Act shall apply to Teak Timber exported from the Arracan, Pegu, Martaban, and Tenasserim Provinces.

**Exception.**

IV. And whereas contracts or agreements may have been made for the sale or delivery of goods on which increased or additional duties are imposed by this Act, and which contracts or agreements may have been made without reference to such increased duties, and thereby the several contractors may be materially affected—It is therefore further enacted, that, if any person shall by virtue of any contract entered into before the passing of this Act be bound to deliver, at any time after the passing of this Act, goods hereby made liable to an increased or additional rate of duty, and shall, upon the importation or exportation of any goods which he may deliver in performance of such contract, pay a rate of duty higher than that which was imposed by law on such goods at the time when the contract was entered into, every such person is hereby authorized and empowered to add to the price of such goods a sum equal to the difference between the duty paid under this Act, and the duty which would have been payable under the laws in force when the contract was entered into, and shall have the same remedy for the recovery of such sum as if the same had been part of the price agreed upon.

**Contracts already made.**

V. This Act shall take effect on and after the 12th day of March 1859 ; and every Collector of Customs and other officer is hereby indemnified for any thing done on or after that day in collecting or enforcing the duties imposed by this Act, or in otherwise carrying into effect the provisions hereof, and no action or other proceeding shall be maintained against any such Collector or other officer in respect of any thing so done.

**Act when to take effect.**

**SCHEDULES A AND B.**

*Repealed by Act X, 1860.*

## GENERAL.

## ACT NO. VIII. OF 1859. \*

*(Received the assent of the Governor General on the 22nd March 1859.)*

## CODE OF CIVIL PROCEDURE.

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\* Extended to the Courts of Small Causes in the Mofussil (so far as applicable and necessary, and with certain exceptions) by Act XLII of 1860 Section 21.—See Act X of 1861 repealing former Acts and Regulations relating to procedure.

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54. *In all cases the person served is to be required to endorse the summons. But service is sufficient without.*

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71. *If no such motion be made, case to proceed as in a suit between private parties. But defendant not liable to arrest before judgment.*

72. *Defendant may in certain cases be exempted from personal appearance.*

73. *Court may adjourn hearing, and direct that parties appearing to be interested in a suit shall be made parties to it.*

74. *In suits for moveable property, when defendant is about to leave jurisdiction, &c., plaintiff may apply that security be taken.*

75. *Court may issue warrant to bring up defendant to show cause why he should not give bail.*

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96. *Compensation to defendant for needless issue of injunction. Proviso.*

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98. *Adjustment or compromise. Court may grant certificate for refund of stamp duty on plaint, if suit be adjusted. Proviso.*

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105. *Marriage of a female plaintiff or defendant not to abate the suit.*

106. *Bankruptcy or Insolvency when not to abate the suit.*

107. *Two notices in writing to be delivered to the proper Officer of the Court.*

108. *Service of notices and other judicial process how to be made on a party who has not appointed a pleader to act for him.*

109. *Parties must appear in person or by pleader.*

110. *If neither party appear, suit to be dismissed with liberty to the plaintiff to bring a fresh suit. Or if sufficient excuse for non-appearance, a fresh summons may be issued.*

111. *If plaintiff only appear, Court may proceed ex parte, if due service of summons be proved. If defendant appear on day of adjourned hearing, and assign good cause for his previous non-appearance, he may be heard.*

112. *If plaintiff only appear, and due service of summons be not proved, Court may order issue of second summons.*

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137. *Receipt to be given for returned Exhibit.*

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140. *Court may examine witnesses or documents before framing the issues.*

141. *Amendment of issues. Additional issues.*

142. *Questions of fact or law may by agreement be stated by the parties in the form of an issue.*

143. *Court, if satisfied that the agreement was executed bonâ fide, may give judgment.*

144. *If the parties are not at issue on law or fact.*

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146. *Court may grant time, or adjourn to a future day. Proviso.*

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148. *Court to proceed to a decision, notwithstanding either party fail to produce proofs or witnesses.*

149. *Application for summons.*

150. *No stamp duty on application for summons.*

151. *Expenses of witnesses to be paid before issue of summons. Scale of expenses. Tender of expenses to witness. If sum be not sufficient. Expenses, if witness is detained.*

152. *Time, place, and purpose of attendance to be specified.*

153. *Summons to produce a document.*

154. *How and when the summons shall be served.*

155. *Service to be on the witness, or a male member of his family*

156. *When the summons cannot be served, it is to be returned*

157. *Time and manner of service to be endorsed on the summons.*

158. *How a summons on a witness who resides in another jurisdiction is to be served.*

159. *When a witness absconds, his property may be attached.*

160. *How to proceed with the witness on his appearance.*

161. *A party to a suit appearing in person may be examined either in his own behalf or on behalf of any other party.*

162. *Special application to be made for examination of a party as a witness.*

163. *The Court may first issue a notice to show cause.*

164. *Court shall receive a written declaration in support of the cause shown.*

165. *If no sufficient cause be shown, summons to issue.*

166. *Court may of its own accord at any time summon a witness.*

167. *Persons summoned to give evidence must attend.*

168. *Consequences of non-attendance by a witness.*

169. *Consequences of refusal to give evidence.*

170. *Consequence of non-attendance or refusal of a party to the suit to give evidence.*

171. *Any person present in Court may be called upon to give evidence, though not summoned.*

172. *Witnesses to be examined at the hearing in open Court. Evidence how to be taken in appealable cases. In what case a witness may require his deposition to be interpreted to him. When evidence may be taken in English. Objection to questions. Memorandum of substance of evidence to be made by Judge as each witness is examined. Evidence how to be taken in cases not appealable. If Judge be unable to make a memorandum of the evidence, reason, to be recorded.*

173. *A witness may for sufficient cause be examined immediately*

174. *Witness to be examined upon Oath, or according to the law for the time being.*

175. *Cases in which Court may issue a Commission to examine witnesses. When the witness resides within the jurisdiction. When beyond the jurisdiction, and not within Supreme Court's jurisdiction, but within the jurisdiction of the Sudder Court.*

176. *When witness is in the jurisdiction of the Supreme Court.*

177. *When witness is not within the jurisdiction of the Sudder or Supreme Court, but within the British Territories or the territories of any Native Prince or State in alliance with the British Government.*

178. *When witness is not within either of the said territories.*

179. *Commission to be returned to the Court issuing it, with the depositions. When depositions may be read in evidence.*

180. *Commission for local investigations. The report and depositions to be taken as evidence. Commissioner may be examined.*

181. *A Commissioner may be appointed to investigate accounts.*

182. *Expenses of Commission to be paid into Court, before issue thereof.*

183. *When judgment is to be pronounced.*

184. *Judgment to be written in the vernacular language of the Judge. Proviso.*

185. *Judgment what to contain. Judgment to be translated.*

186. *Court to state its decision on each issue. Proviso.*

187. *Judgment to direct by whom costs are to be paid.*

188. *What is included under the denomination of costs.*

189. *Decree.*
190. *Decree for the recovery of a portion of immoveable property.*
191. *Decree for the delivery of moveable property.*
192. *Decree for damages for breach of contract.*
194. *Payment by instalments.*
195. *If set-off be allowed. Effect of decree.*
196. *When the suit is for land, the Court may provide in the decree for payment of mesne profits with interest.*
197. *Court may determine amount of mesne profits, prior to passing decree; or may reserve enquiry.*
198. *Certified copies of the decree and judgment to be furnished.*
199. *Decree for immoveable property.*
200. *Decree for moveable property, performance of contract, or alternative.*
201. *Decree for money.*
202. *Decrees for execution of conveyances, or endorsement of negotiable instruments.*
203. *Decree against representatives of deceased persons.*
204. *Decree against sureties.*
205. *What property liable to attachment and sale in execution.*
206. *Payment of monies under decrees, &c. Adjustment of decree to be made through the Court.*
207. *Application for execution how to be made.*
208. *Application by whom to be made, if decree be transferred from original decree-holder to another person.*
209. *Cross-decrees.*
210. *If judgment debtor shall die before execution, application may be made against his legal representative or estate.*
211. *Decree how to be executed against legal representative.*
212. *Form of application for execution of a decree.*
213. *Further particulars, when the application is for an attachment of immoveable property.*
214. *The application for an attachment of moveable property may be general, or may be accompanied with an inventory of the property to be attached.*
216. *In special cases, notice to show cause why the decree should not be executed shall be issued. Promise.*
217. *Procedure after issue of notice.*
218. *Application for a general attachment of moveable property.*
219. *Before granting order, Court may make certain enquiries as to the property to be attached.*
220. *Rules applicable to the summoning and examination of parties and witnesses after judgment.*
221. *Warrant when to issue.*

222. *Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.*

223. *How immoveable property is to be delivered, when in the occupancy of a defendant or of some person under him.*

224. *How it is to be delivered, when in the occupancy of ryots.*

225. *Division of estate or separation of share, how to be made.*

226. *Obstruction to execution of decree for immoveable property.*

227. *Obstruction by defendant.*

228. *How defendant may be dealt with, if he persists.*

229. *Obstruction by a bona fide claimant, not defendant.*

230. *Procedure in certain cases, if person dispossessed of immoveable property dispute the right of decree-holder to be put into possession of such property.*

231. *Appeal from decision under the last two Sections.*

232. *Attachment of property in execution of decree for money.*

233. *Attachment by seizure of moveable property in possession of defendant.*

234. *Attachment, by prohibitory order, of moveable property to which defendant is entitled subject to a lien.*

235. *Attachment, by prohibitory order, of immoveable property.*

236. *Attachment, by prohibitory order, of debts not being negotiable instruments, and of shares in public Companies, &c.*

237. *Attachment, by notice, of money or securities in deposit in a Court of Justice or with a Government Officer. Proviso.*

238. *Attachment of negotiable instruments by seizure.*

239. *When the attachment is by prohibitory order, how the order is to be made known.*

240. *Any private alienation after attachment to be void.*

241. *Payment by a debtor who has been prohibited from making payment to his creditor.*

242. *The Court may direct money or bank notes to be paid to the plaintiff; or other attached property to be sold, and proceeds to be paid to him.*

243. *Where the property attached consists of debts or immoveable property, a Manager may be appointed. Court may postpone sale of land, if satisfied that amount of judgment may be raised by mortgage &c. Manager to render accounts.*

244. *When Court may authorize Collectors to stay public sale of land. On security being given.*

245. *Order for withdrawal of attachment after satisfaction of the decree.*

246. *How claims and objections to sale of attached property are to be investigated.*

247. *Claims and objections to be preferred at the earliest opportunity.*

248. *Sales to be by public auction. Exception as to negotiable securities and shares in public Companies. Sale by Collector of lands paying revenue to Government.*

249. *Notification of sales by public auction. Time of sale*

250. *The process for attachment and sale may in certain cases be issued simultaneously.*

251. *Mode of payment on sale of moveable property.*

252. *Irregularity not to vitiate sale of moveable property, but any person injured may recover damages by suit.*

253. *Deposit by purchaser in case of sale of immoveable property.*

254. *At what time full amount of purchase money to be made good. Procedure on default. Defaulting purchaser answerable for loss by re-sale.*

255. *Notification on re-sale of immoveable property.*

256. *Confirmation of sale.*

257. *The sale, if not objected to for irregularity, or if the objection is disallowed, shall become absolute. When the order to set aside a sale shall be open to appeal.*

259. *Certificates to be granted to the purchaser of land.*

260. *Certificate to state the name of actual purchaser.*

261. *Delivery of moveable property in possession of defendant.*

262. *Delivery of moveable property to which defendant is entitled subject to lien*

263. *Delivery of immoveable property in the occupancy of defendants, &c.*

264. *Delivery of immoveable property in the occupancy of ryots, &c.*

265. *Delivery of debts not being negotiable instruments, and of shares in public Companies.*

266. *Delivery of negotiable securities of which actual seizure has been made.*

267. *Transfer of securities and shares.*

268. *Resisting or obstructing purchasers in obtaining possession of property.*

269. *Obstruction by claimants other than defendants.*

270. *Attaching creditor to be first paid out of proceeds of property sold.*

271. *Surplus to be rateably distributed among decree-holders who have taken out execution prior to the order for distribution. Proviso where property is sold subject to a Mortgage.*

272. *Court may on application order another decree-holder to be satisfied out of proceeds of property attached under a decree obtained fraudulently.*

273. *On what grounds, application for discharge may be made. Form of application. Verification.*

275. *Defendant liable to be again arrested, if proved guilty of fraudulent concealment of property, &c.*

276. *Subsistence-money of a defendant in gaol, how fixed and furnished.*

277. *Court may vary the allowance in case of illness, or for other special cause.*

278. *Release of defendant. Imprisonment not to be longer than 2 years. Six months, if decree for money not exceeding 500 Rupees. Three months, if not exceeding 50 Rupees.*

279. *Subsistence-money to be added to amount of decree.*

280. *Application by person imprisoned under a decree, for discharge on a surrender of the whole of his property. Verification.*

281. *Procedure on such application. Defendant to be discharged on plaintiff failing to prove fraud or concealment by defendant. If guilty of fraud or concealment, debtor's imprisonment may be extended to two years; and he may be further dealt with criminally.*

282. *Though the defendant be discharged, his property is liable for the decree. When Court may declare a defendant absolved from further liability.*

284. *How a decree of one Court may be executed within the jurisdiction of another Court.*

285. *Application for such execution.*

286. *Copy of decree and order for execution to be transmitted.*

287. *Decree or order transmitted, to be executed as that of the Court.*

288. *Execution how to be enforced by Court applied to.*

289. *Wrongful acts or irregularities in executing decree to be punished by Court applied to.*

290. *Court applied to may in certain cases stay execution, &c.*

291. *Before staying execution, Court may require security from, or impose conditions upon, defendant.*

292. *Order of Court passing decree, or of Appellate Court, to be binding upon Court applied to.*

293. *Liability of defendant discharged, to be re-taken.*

294. *What appeal from orders for execution under this Act.*

295. *Warrant of arrest or other process in execution of decrees, how to be enforced in Military Cantonments, &c.*

296. *Rules contained in this Chapter to be applicable to all Civil process for sale of property, &c.*

297. *Suits may be brought in formâ pauperis.*
298. *What suits excepted.*
299. *Application to be by petition on stamp paper.*
300. *Petition what to contain.*
301. *How to be presented Examination of petitioner, if a female, how to be taken.*
302. *Petition to be rejected if not in form.*
303. *If in form, Court how to proceed. If presented by an agent, Court may order petitioner to be examined in like manner as an absent witness.*
304. *Court may reject the application.*
305. *Notice to opposite party.*
306. *After a summary enquiry, the Court to pass a final order.*
307. *Court may direct a local enquiry.*
308. *Course of proceeding, if application be admitted.*
309. *On the decision of the suit, costs how to be calculated.*
310. *Refusal to allow to sue as a pauper, to bar any subsequent application of the like nature.*
311. *No appeal from orders under this Chapter.*
312. *Reference to arbitration on application of the parties.*
313. *Application how to be made.*
314. *Nomination and appointment of arbitrators.*
315. *Order of reference.*
316. *When the reference is to two or more, the order shall provide for difference of opinion.*
317. *Summoning witnesses. Punishment of contempts, &c.*
318. *Extension of time for making award.*
319. *In case of death, incapacity, or refusal to act of Arbitrators or Umpire, Court may appoint others instead.*
320. *Award how to be submitted to Court.*
321. *Arbitrator may state special case.*
322. *Court may, on application, modify or correct an award in certain cases. And make order respecting the costs of arbitration.*
323. *In what cases Court may remit the award, or any of the matters referred to arbitration, for reconsideration.*
324. *Award not to be set aside, except on ground of corruption. Application to set aside the award.*
325. *Judgment to be according to the award.*
326. *Agreement of parties to refer to arbitration may be filed in the Court. Provisions of this Chapter applicable.*
327. *Filing in Court an award, when the matter was referred to arbitration without intervention of Court. Enforcement of such award.*

328. *Questions of fact, or of law or equity, may be raised by agreement for the decision of any Court having jurisdiction.*

329. *Agreement to be filed and numbered as a suit.*

330. *Parties to be subject to the Court's jurisdiction.*

331. *Hearing and disposal of the case.*

333. *Appeal to be preferred by a memorandum to be presented to the Appellate Court within specified time*

334. *What the memorandum is to contain*

335. *Form of memorandum.*

336. *If memorandum be not in form or not duly presented.*

337. *One of several plaintiffs or defendants may appeal and obtain a reversal of the whole decree, if it proceed on a ground common to all.*

338. *Execution of decree may be stayed on appeal, but only if sufficient cause be shown Court, before making such order, shall require security for due performance of decree or order of Appellate Court*

340. *No such security to be required from Government or from any public Officer.*

341. *How the appeal is to be entered Form of the Registrar.*

342. *Appellate Court may, at its discretion, require security for costs from appellant. Proviso*

343. *Appellate Court to send intimation to Lower Court of appeal being registered. Lower Court to transmit papers to Appellate Court. Either party may give notice of Exhibits of which he requires copies to be made and deposited in the Lower Court*

344. *Day for hearing the appeal, how to be fixed*

345. *Publication and service of notice of the day fixed for hearing the appeal. Form of notice.*

346. *Consequence of non-appearance*

347. *Re-admission of appeals dismissed for default of prosecution.*

348. *Respondent may object to decision of Lower Court in the same manner as if he had preferred a separate appeal.*

349. *The Appellate Court how to give judgment.*

350. *No decision to be reversed for irregularity*

351. *When a case may be remanded by Appellate Court.*

352. *Power to remand limited as above.*

353. *When the evidence is sufficient, the Appellate Court must determine the case, though the Lower Court has decided on other grounds.*

354. *Trial of issues by Lower Court on reference from Appellate Court.*



355. *Parties not allowed to produce additional evidence in Appellate Court, but Court may call for such evidence.*
356. *How additional evidence is to be taken.*
357. *Points to be defined.*
358. *Repealed.*
359. *Judgment of the Appellate Court In what language it is to be written. Dissent to be recorded*
360. *What the decree is to contain.*
361. *A certified copy to be transmitted to the Lower Court.*
362. *How to be executed.*
363. *No appeal from order passed before decree, but error or defect therein may be set forth as an objection, if the decree be appealed against.*
364. *No appeal from order passed after decree and relating to the execution thereof, except as provided.*
365. *Appeal from orders as to fines or imprisonment.*
366. *Procedure in appeals from orders*
367. *Who may appeal as pauper.*
368. *Application to whom and when to be presented.*
369. *Form of application.*
370. *Procedure.*
371. *Effect of order by Appellate Court*
372. *Special appeals to Sudder Court Grounds of special appeal.*
373. *Application to be presented to the Sudder Court.*
374. *Form of application*
376. *Review of judgment. On discovery of new evidence, &c.*
377. *Within what time and on what paper the application should be made.*
378. *The order for granting or refusing Review to be final.*
379. *Application for a Review in the Sudder Court must be made to the Judge or Judges that passed the decree.*
380. *Procedure on application for a Review being granted.*
382. *Act not to extend, except in certain cases, to Supreme and Presidency Small Cause Courts*
383. *Saving of jurisdiction and procedure of Village Moonsiffs and Village and District Panchayets in Madras—of Military Courts of Request—of single Officers appointed to try small suits in Madras and Bombay—and of Military Panchayets in Madras.*
384. *Saving of certain special or local Laws. To what extent this Act applies to them.*
385. *Act not to take effect in places not subject to the general Regulations, until extended thereto.*

886. *Interpretation. Number. Gender. "District." "District Court." "Sudder Court."*

887. *Commencement of operation of Act. Pending suits.*

888. *Where Act comes into operation, procedure of Civil Courts to be regulated by it only.*

An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.

WHEREAS it is expedient to simplify the Procedure of the Courts of Civil Judicature not established by Royal Charter ; It is enacted as follows :—

## CHAPTER I.

### OF THE JURISDICTION OF THE CIVIL COURTS.

I. The Civil Courts shall take cognizance of all suits of a Civil nature, with the exception of suits of which their cognizance is barred by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras, and Bombay respectively, or by any Act of the Governor General of India in Council.

Civil Courts to have cognizance of all Civil suits, unless specially barred.

II. The Civil Courts shall not take cognizance of any suit brought on a cause of action which shall have been heard and determined by a Court of competent jurisdiction in a former suit between the same parties or between parties under whom they claim.

Or previously heard and determined.

III. The judgments of the Civil Courts shall not be subject to revision otherwise than by those Courts under the rules contained in this Act applicable to reviews of judgment, and by the constituted Courts of Appellate Jurisdiction.

Revision of Judgments.

IV. No person whatever shall, by reason of place of birth, or by reason of descent, be in any Civil proceeding whatever excepted from the jurisdiction of any of the Civil Courts.

Jurisdiction universal as to persons.

V. Subject to such pecuniary or other limitations as are or shall be prescribed by any law for the time being in force,

Jurisdiction as to other points.

the Civil Courts of each grade shall receive, try, and determine all suits hereby declared to be cognizable by those Courts, if, in the case of suits for land or other immoveable property, such land or property shall be situate within the limits to which their respective jurisdictions may extend, and in all other cases if the cause of action shall have arisen, or the defendant at the time of the commencement of the suit shall dwell, or personally work for gain, within such limits.

In what Court  
suit to be insti-  
tuted

VI. Every suit shall be instituted in the Court of the lowest grade competent to try it. But it shall be lawful for the District Court to withdraw any suit instituted in any Court subordinate to such District Court, and to try such suit itself, or to refer it for trial to any other Court subordinate to its authority and competent in respect of the value of the suit to try the same, whenever it may see sufficient cause for so doing. In like manner the Sudder Court may order that the cognizance of any suit or appeal, which may be instituted in any Court subordinate to such Sudder Court, shall be transferred to any other Court subordinate to its authority and competent in respect of the value of the suit or appeal to try the same.

Transfer of  
suits.

Suit to include  
the whole claim,  
but part may be  
abandoned.

VII. Every suit shall include the whole of the claim arising out of the cause of action, but a plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. If a plaintiff relinquish or omit to sue for any portion of his claim, a suit for the portion so relinquished or omitted, shall not afterwards be entertained.

Joinder of sepa-  
rate causes of ac-  
tion in one suit.

VIII. Causes of action by and against the same parties, and cognizable by the same Court, may be joined in the same suit, provided the entire claim in respect of the amount or value of the property in suit do not exceed the jurisdiction of such Court.

Court may or-  
der separate trial  
if such causes of  
action.

IX. If two or more causes of action be joined in one suit, and the Court shall be of opinion that they cannot con-

veniently be tried together, the Court may order separate trials of such causes of action to be held.

X. A claim for the recovery of land, and a claim for the mesne profits of such land, shall be deemed to be distinct causes of action within the meaning of the two last preceding Sections.

Claims for land and for mesne profits, to be held distinct.

XI. If the suit be for land or other immoveable property situate within the limits of a single District, but within the jurisdiction of different Courts, the suit may be brought in the Court within the jurisdiction of which any portion of such land or other immoveable property is situate, provided the entire claim in respect of the value of the property in suit be cognizable by such Court; but in such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same.

Suits for land in different jurisdictions of the same District.

XII. In like manner, if the property be situate within the limits of different Districts, the suit may be brought in any Court, otherwise competent to try it, within the jurisdiction of which any portion of the land or other immoveable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Sudder Court for authority to proceed with the same; if the suit is brought in any Court subordinate to a District Court, the application shall be submitted through the District Court to which the Court is subordinate.

Suits for land situate in different Districts.

XIII. If the Districts within the limits of which the property is situate are subject to different Sudder Courts, the application shall be submitted to the Sudder Court to which the District, in which the suit is brought, is subject; and the Sudder Court to which such application is made, may, with the concurrence of the Sudder Court to which the other District is subject, give authority to proceed with the same.

Suits for land situate under different Sudder Courts.

XIV. If, in a suit for land situate on the borders of the Court's local jurisdiction, the defendant object to the hear-

Suit for land on borders of the Court's local

jurisdiction but  
alleged by defend-  
ant to be in an-  
other jurisdic-  
tion.

Proviso.

Declaratory  
suit.

ing of the suit on the ground that the land is not included within the local jurisdiction of the Court, the Court shall have power to determine the point; and if the Court shall find that the land is included within its local jurisdiction, it shall proceed to try the suit. Provided that, if it be shown that the land in dispute has been adjudged by competent authority to belong to an estate, village, or other known division of land situate within the local jurisdiction of another Court, the Court in which the suit is brought shall reject the plaint or return it to the plaintiff in order to its being presented in the proper Court.

XV. No suit shall be open to objection on the ground that a merely declaratory decree or order is sought thereby, and it shall be lawful for the Civil Courts to make binding declarations of right without granting consequential relief.

## CHAPTER II.

### PRELIMINARY RULES.

Parties may ap-  
pear in person or  
by agent or  
pleader.

XVI. All applications to any Civil Court, and all appearances of parties in any Civil Court, except when otherwise specially provided by this Act, shall be made by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Who are to be  
deemed recog-  
nised agents.

XVII. The recognized agents of parties by whom such applications and appearances may be made are—

*1st.*—Persons holding general powers of attorney from parties not within the jurisdiction of the Court, authorizing them to make such applications and appearances on behalf of such parties.

*2ndly.*—Persons carrying on trade or business for and in the name of parties not within the jurisdiction of the Court, in matters connected with such trade or business only, where no other agent is expressly authorized to make such applications or appearances.

*3rdly.*—Persons being ex-officio or otherwise authorized to act for Government in respect of any suit or judicial proceeding.

*4thly.*—Persons specially appointed by order of Government, at the request of any Sovereign Prince or Independent Chief, whether residing within or without the British Territories, to prosecute or defend a suit on his behalf.

Whenever the personal appearance of a party to a suit is required by this Act, such appearance may be made by his recognized agent, unless the Court shall otherwise direct; and anything which by this Act is required or permitted to be done by a party in person may be done by his recognized agent. Notices given to or processes served on a recognized agent relative to a suit shall be as effectual, for all purposes in relation to the suit, as if the same had been given to or served on the party in person, unless the Court shall otherwise direct; and all the provisions of this Act relative to the service of notices or processes on a party to a suit shall be applicable to the service of notices and processes on such recognized agent.

XVIII. The appointment of a pleader to make any such application or appearance as aforesaid shall be in writing, and shall be filed in the Court. When so filed, it shall be considered to be in full force, until revoked by a writing filed in the Court. All notices given to, or processes served on the pleader of any party, or left at the office or ordinary residence of such pleader, relative to a suit, and whether the same be for the personal attendance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents, and shall be as effectual, for all purposes in relation to the suit, as if the same had been given to or served on the party in person, unless the Court shall otherwise direct.

XIX. When an Officer or Soldier in the service of the Government is a party to a suit, and cannot obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any member

Appointment of pleaders.

Service of notices, &c., on pleaders.

Officer or Soldier may authorize any one to appear for him.

of his family or any other person to commence, conduct, and manage the suit or the defence, as the case may be, in his stead. The authority shall be in writing, and shall be signed by the Officer or Soldier in the presence of his Commanding Officer, who shall countersign the same, and it shall be filed in the Court. When so filed, the counter-signature of the Commanding Officer shall be sufficient proof that the authority was duly executed, and that the Officer or Soldier by whom it was granted could not obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person.

Such person  
may appear per-  
sonally or appoint  
a pleader.

XX. Any person who may be authorized, as in the last preceding Section mentioned, by an Officer or Soldier, to prosecute or defend a suit in his stead, shall be competent to prosecute or defend it in person, in the same manner as the Officer or Soldier could do, if present; or he may appoint a pleader of the Court to prosecute or defend the suit on behalf of such Officer or Soldier. And all notices or processes relative to the suit, which may be served upon any person who shall be so authorized, as aforesaid by an Officer or Soldier, or upon any pleader who shall be appointed as aforesaid by such person to act for or on behalf of such Officer or Soldier, shall be as effectual for all purposes relative to the suit as if the same had been served on the party in person, or on a pleader appointed by him.

Purdah women  
exempt from per-  
sonal appearance

XXI. Women, who according to the custom and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court.

Government may  
exempt persons  
of rank from per-  
sonal appear-  
ance.

XXII. The Government may at its discretion exempt from personal appearance in Court any person whose rank in the opinion of the Government entitles him to the privilege of exemption, and may at its discretion withdraw such privilege. The names of the persons so exempted (if any) residing within the jurisdiction of the principal Civil Court of each District shall from time to time be forwarded to such Court by the local Government, and a list of such persons

(if any) shall be kept in such Court and in the several subordinate Courts of the District.

XXIII. *Repealed by Act XXIII, 1861, Section I.*

XXIV. If any plaint, written statement, or declaration in writing required by this Act to be verified shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabricating false evidence.

**Punishment for false verification of plaint, statement, &c.**

CHAPTER III.

OF A SUIT TILL FINAL DECREE.

OF THE INSTITUTION OF SUITS.

XXV. All suits shall be commenced by a plaint, which, except when otherwise specially provided by this Act, shall be presented to the Court by the plaintiff in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

**Suits to be commenced by plaint.**

XXVI. The plaint shall be distinctly written in the language in ordinary use in proceedings before the Court, and shall contain the following particulars :—

**Particulars to be given in the plaint**

1.—The name, description, and place of abode of the plaintiff.

2.—The name, description, and place of abode of the defendant, so far as they can be ascertained.

3.—The relief sought for, the subject of the claim, the cause of action and when it accrued : and, if the cause of action accrued beyond the period ordinarily allowed by any law for commencing such a suit, the ground upon which exemption from the law is claimed.

The following are instances :

If the suit be for money due on a bond or other written instrument:—Payment of due on (a bond



*or other written instrument as the case may be) for the sum of \_\_\_\_\_, bearing date the day of \_\_\_\_\_, and payable on the \_\_\_\_\_ day of \_\_\_\_\_ namely,—*  
 Principal.....  
 Interest .....  
 Amount paid (if any) .....

Balance due.

If the plaintiff claim exemption from any law of limitation, say—" The plaintiff was an infant (*or as the case may be*) from the \_\_\_\_\_ day of \_\_\_\_\_ to the \_\_\_\_\_ day of \_\_\_\_\_."

If the suit be for the price of goods sold:—Payment of \_\_\_\_\_, on account of \_\_\_\_\_ maunds of (*rice, indigo, sugar, or as the case may be,*) sold on the \_\_\_\_\_ day of \_\_\_\_\_, and the price of which became payable on the \_\_\_\_\_ day of \_\_\_\_\_ as per account at foot.

If the suit be for damages for an injury done:—Payment of \_\_\_\_\_ on account of injury done to the plaintiff, [*here set out the nature of the injury, and state the particulars of the pecuniary loss (if any).*]

4.—When the claim is for any property other than money, its estimated value.

The following is an instance :—

If the suit be for an estate or for a share in an estate paying revenue to Government :—Possession of the estate (*or of share in the estate,*) called \_\_\_\_\_, situate in the Zillah of \_\_\_\_\_ the sudder jumma of which is \_\_\_\_\_ and estimated value \_\_\_\_\_, of which the plaintiff was dispossessed (*or forcibly or fraudulently dispossessed if the case be so,*) on the \_\_\_\_\_ day of \_\_\_\_\_; (*or to which the plaintiff became entitled by inheritance from \_\_\_\_\_ or by gift, purchase, or otherwise, as the case may be, on or about the \_\_\_\_\_ day of \_\_\_\_\_*).

5.—When the claim is for land or for any interest in land, the nature of the tenure or interest must be specified ;

and if the claim be for land forming part of a village or other known division, or for a house, garden, or the like, its situation shall be described by the setting forth of boundaries, or in such other manner as may suffice for its identification.

6.—In all suits by or against the Government, or one of its Officers in his official capacity, or any corporation, or any Company authorized to sue and be sued in the name of an Officer or Trustees, the words “The Government,” or “The Collector of \_\_\_\_\_,” or otherwise as the case may be, or the name of the Corporation, or the name or names of the Officer or Trustees of the Company, shall be inserted in Nos. 1 and 2, instead of the name and description of the plaintiff or defendant. But in all other cases it shall be necessary to specify the names of all the parties.

XXVII. The plaint shall be subscribed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff in the manner following, or to the like effect:—

*I (A. B) the plaintiff named in the above plaint do declare that what is stated therein is true to the best of my information and belief.*

Plaint to be subscribed and verified.

XXVIII. If the plaintiff, by reason of absence or for other good cause, be unable to subscribe and verify the plaint, the Court may allow the plaint to be subscribed and verified on behalf of the plaintiff by any person whom the Court may consider competent to make the verification. In suits by a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the plaint shall be subscribed and verified on behalf of the Corporation or Company by any Director, Secretary, or other principal Officer of the Corporation or Company who may be able to depose to the facts of the case.

Absence of plaintiff. Verification by Officer of corporation or company.

XXIX. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or if it contain particulars other than those required to be specified, whether relevant to the suit or not, or if the statement of particulars be unnecessarily prolix, or if the plaint be not subscribed

Court may reject plaint, if it do not contain the required particulars, &c. Amendment of Plaint.

and verified as hereinbefore required, the Court may reject the plaint, or at its discretion may allow the plaint to be amended.

Plaint to be returned, if the claim is beyond the jurisdiction of the Court.

XXX. If the amount or estimated value of the claim, as stated by the plaintiff, be beyond the jurisdiction of the Court, the plaint shall be returned to the plaintiff in order to its being presented in the proper Court.

Plaint to be rejected, if improperly or insufficiently valued.

.XXXI. If it appear to the Court that the claim is improperly valued, or, being properly valued, that the plaint is written upon stamped paper of inadequate value, and the plaintiff, on being required by the Court to correct such improper valuation or to supply such additional stamp paper as may be necessary, shall not comply with the requisition, the Court shall reject the plaint.

Plaint to be rejected, if plaintiff has no cause of action or right of action is barred by lapse of time. Amendment of plaint.

XXXII. If upon the face of the plaint, or after questioning the plaintiff, it appear to the Court that the subject matter of the plaint does not constitute a cause of action, or that the right of action is barred by lapse of time, the Court shall reject the plaint. Provided, that the Court may in any case allow the plaint to be amended, if it appear proper to do so.

XXXIII. *Repealed by Act XXIII, 1861, Sec. 1.*

Security for costs to be furnished by plaintiff if he resides out of British India.

XXXIV. A suit by a party ordinarily residing out of the British territories in India, and not possessing any land or other immoveable property within those territories independent of the property in suit, shall not be entertained, unless the plaintiff, at the time of presenting the plaint or within such time as the Court shall order, furnish security for the payment of all costs that may be incurred by the defendant in the suit. In the event of such security not being furnished, the Court shall return the plaint to the plaintiff.

Security for costs may be required in any stage of suit, if plaintiff resides out of India.

XXXV. If in any stage of a suit it shall appear to the Court, that the plaintiff (being sole plaintiff) is a person residing out of the British territories in India, the Court may order him, within a time to be fixed by such order, to furnish security for the payment of all costs incurred and to be

incurred by the defendant in the suit. In the event of such security not being furnished within the time so fixed, the Court shall pass judgment against the plaintiff by default, unless he be permitted to withdraw from the suit under the provisions of Section 97.

XXXVI. Whenever a plaint is rejected under any of the foregoing Sections, an appeal shall lie from the order rejecting the plaint. The rejection of a plaint on any of the grounds mentioned in Sections 29 and 31 shall not preclude a plaintiff from presenting a fresh plaint in respect of the same cause of action.

Appeal from  
order rejecting  
plaint.

XXXVII. If the suit be for land or other immoveable property, situate partly within the jurisdiction of the Court and partly within the jurisdiction of some other Court or Courts, the Court shall proceed according to the rules contained in Section 11, Section 12, or Section 13, as the case may be.

Proceeding in a  
suit for immove-  
able property in  
different jurisdic-  
tions.

XXXVIII. If the Court consider the plaint admissible, the particulars mentioned in Section 26 shall be entered in a book to be kept for the purpose, and called the Register of Civil Suits; and the entries shall be numbered in every year according to the order in which the plaint is presented. The Register shall be kept in the form contained in the Schedule (A) hereunto annexed.

When the plaint  
is admissible,  
particulars to be  
entered in a Re-  
gister.

XXXIX. When the plaintiff sues upon any written document, or relies upon any such document as evidence in support of his claim, he shall produce the same in Court when the plaint is presented, and shall at the same time deliver a copy of the document to be filed with the plaint; if the document be an entry in a shop-book or other book, the plaintiff shall produce the book to the Court together with a copy of the entry on which he relies. The Court shall forthwith mark the document for the purpose of identification; and, after examining and comparing the copy with the original, shall return the document to the plaintiff. The plaintiff may, if he think proper, deliver the original document to be filed instead of the copy. The Court may, if it see sufficient cause, direct

Written docu-  
ment to be pro-  
duced in Court  
when plaint is  
presented, or to  
be inadmissible  
in evidence.

any written document so produced to be impounded and kept in the custody of some Officer of the Court, for such period and subject to such conditions as to the Court shall seem meet. Any document, not produced in Court by the plaintiff when the plaint is presented, shall not be received in evidence on his behalf at the hearing of the suit without the sanction of the Court.

**Production of document in possession of defendant.**

**XI.** If the plaintiff require the production of any written document in the possession or power of the defendant, he may, at the time of presenting the plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

#### OF SUMMONING THE DEFENDANT.

**On plaint being registered, summons to issue to defendant, either for settlement of the issues, or for final disposal of the case.**

**XLI.** When the plaint has been registered, a summons, under the signature of the Judge and the seal of the Court, shall be issued to the defendant to appear and answer the claim, on a day to be therein specified, in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or by a pleader who shall be accompanied by some other person able to answer all such questions. The Court shall determine at the time of issuing the summons, whether it shall be for the settlement of issues only, or for the final disposal of the suit, and the summons shall contain a direction accordingly.

**Personal appearance of defendant or plaintiff. If resident within 50 miles or within the local jurisdiction of the Court.**

**XLII.** If the Court see reason to require the personal attendance of the defendant, the summons shall order the defendant to appear personally in Court on the day therein specified. If the Court see reason to require the personal attendance of the plaintiff on that day, it may make an order for such attendance. Provided, that no plaintiff or defendant shall be ordered to attend in person, who at the time is *bonâ fide* residing at a distance of more than fifty miles from the place where the Court is held, unless he be resident within the limits of the jurisdiction of the Court.

**Summons shall order defendant to produce documents.**

**XLIII.** The summons to appear shall order the defendant to produce any written document in his possession or

power, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence.

XLIV. The summons shall be in the Form contained in the Schedule (B) hereunto annexed, or to the like effect.

**Form of summons.**

XLV. The day for the appearance of the defendant shall be fixed by the Court with reference to the place of residence of the defendant, and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant a sufficient time to enable him to appear and answer in person or by a pleader on such day

**The day for appearance of defendant how to be fixed.**

XLVI. In suits against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the Court may, if it think proper, require the personal attendance of any Director, Secretary, or other principal officer of the Corporation or Company, who may be able to answer all material questions relating to the suit.

**Court may order personal appearance of a Director or Secretary in suits against a Corporation or Company.**

#### SERVICE OF SUMMONS ON THE DEFENDANT.

XLVII. The summons shall be delivered to the Nazir, or other proper officer of the Court, to be served by himself or one of his subordinates, and such officer shall be responsible for its due service.

**Summons shall be served by Officer of Court.**

XLVIII. Service of the summons shall be made by delivering or tendering a copy thereof under the signature of the Judge and seal of the Court; and when there are more defendants than one, service of the summons shall be made on each defendant.

**How service shall be made.**

XLIX. Whenever it may be practicable, the service shall be on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

**Service to be on defendant in person, when practicable. Service on agent sufficient.**

L. Besides the recognized agents described in Section 17, any person residing within the jurisdiction of the Court may be appointed an agent to receive the service of summonses and other processes.

**Who may be an agent to receive service.**

**Appointment of such agent to be in writing and filed in Court.**

LI. The appointment of such agent shall be in writing, and the original appointment, or a copy thereof if the appointment be a general one, shall be filed in the Court.

**Agent of Government.**

LII. The Government pleader in each Court shall be accounted the agent of the Government for the purpose of receiving services of summonses and other judicial processes against the Government, issuing out of the Court in which he may be the pleader of Government.

**If defendant cannot be found, and has no agent, service may be made on a male member of his family.**

LIII. When the defendant cannot be found, and has no agent empowered to accept the service of the summons, it may be made on any adult male member of his family residing with him.

**In all cases the person served is to be required to endorse the summons. But service is sufficient without.**

LIV. In all cases where the summons is served on the defendant personally, or any agent or other person on his behalf, the serving Officer shall require the signature of the person on whom the service may be made, to an acknowledgment of service, to be endorsed on the original summons or on a copy thereof under the seal of the Court. If such person refuse to sign the acknowledgment, the service of the summons shall nevertheless be held sufficient, if it be otherwise proved to the satisfaction of the Court.

**If the summons cannot be served, a copy shall be fixed to the door of the dwelling house.**

LV. When the defendant cannot be found, and there is no agent empowered to accept the service, nor any other person on whom the service can be made, the serving Officer shall fix the copy of the summons on the outer door of the house in which the defendant is dwelling; and, if he is not dwelling in the place mentioned in the summons, the serving Officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it. Provided that, if the serving Officer is informed that the defendant is to be found or has his dwelling in a place within the jurisdiction of the Court other than that indicated in the summons, the Officer may proceed to that place to serve the summons.

**If served, time and manner of service to be endorsed on summons.**

LVI. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons

or on a copy thereof under the seal of the Court, the time when and the manner in which it was served.

LVII. When a summons is returned to the Court without having been served, if the plaintiff shall satisfy the Court that there is reasonable ground for believing that the defendant is keeping out of the way of its Officer for the purpose of avoiding the service of the summons, the Court shall order the summons to be served by fixing up a copy thereof upon some conspicuous place in the Court-house, and also upon the door of the house in which the defendant shall have last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. And the service which shall be substituted by order of the Court, shall be as effectual to all intents and purposes as if it had been effected in the manner above specified.

When summons is unserved, Court to order substituted service, if defendant is avoiding service.

LVIII. Whenever service shall be substituted by order of the Court by virtue of the power contained in the last preceding Section, the Court shall fix such time for the appearance of the defendant as the case may require.

When service is substituted, the time for appearance to be fixed.

LIX. If the defendant be resident within the jurisdiction of any Court other than that in which the suit is instituted, and have no agent empowered to accept the service, the Court in which the suit is instituted shall transmit the summons, either by an Officer of the Court or by post, to any Court having jurisdiction at the place where the defendant resides, by which it can be most conveniently served, and shall fix such time for the appearance of the defendant as the case may require; and the Court to which the summons is transmitted, shall, upon receipt of the summons, deliver the same to the Nazir or other proper Officer of such Court, to be served in the manner above directed; and upon the return of the summons by the serving Officer, it shall be re-transmitted to the Court from whence it originally issued.

How summons is to be served, when defendant is resident within another jurisdiction and has no agent.

LX. If the defendant, be resident out of the British territories in India, and have no agent empowered to accept the service, the summons shall be addressed to the defendant

How summons is to be served, when defendant resides out of British India and has no



agent Time for  
appearance In  
case of non-ap-  
pearance, Court  
may direct suit  
to proceed sub-  
ject to condi-  
tions

at the place where he may reside, and forwarded to him by post. In such case the time for the appearance of the defendant shall be regulated by the time which may be required for communication by post between the place at which the Court is held and the place where the defendant resides; and if, on the day fixed for the hearing of the suit, or on any day to which the hearing may be adjourned, the defendant shall not appear in person or by pleader, the plaintiff may apply to the Court, and it shall be lawful for the Court to direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to the Court may seem meet.

In suits for im-  
moveable prop-  
erty. service  
may in certain  
cases be on agent  
in charge.

LXI When the suit is for land or other immoveable property, and the summons for any reason cannot be served on the defendant in person, and the defendant has no agent empowered to accept the service, the summons may be served on any agent of the defendant in charge of such land or other immoveable property.

How service  
may be made on  
Government  
Servants, and on  
Officers and  
Soldiers

LXII. When the defendant is in the service of the Government, the Court may transmit a copy of the summons to the head Officer of the office in which the defendant is employed, for the purpose of being served on him, if it shall appear to the Court that the summons may be most conveniently so served. If the defendant be an Officer or Soldier, the Court shall transmit a copy of the summons to the Commanding Officer of the Corps to which the defendant belongs, for the purpose of being served on him. The Officer to whom the summons is transmitted, after causing the summons to be served on the person to whom it is addressed if practicable, shall return it to the Court with the written acknowledgement of such person endorsed thereon. If from any cause the summons cannot be served upon the person to whom it is addressed, it shall be returned to the Court by which it was transmitted with information of the cause which has prevented the service. In such case the Court shall adopt such other means of serving the summons as it may deem proper.

LXIII. When the suit is against a Corporation, or a Company authorized to sue and be sued in the name of an Officer or Trustees, the summons may be served by leaving the same at the registered Office (if any) of the Company, or sending it through the Post Office by a letter addressed to such Office, or by giving it to any Director, Secretary, or other principal Officer of the Corporation or Company.

Service on a Corporation or Company.

LXIV. Nothing contained in the preceding rules shall be construed to prevent the Court from substituting for the summons, a letter or other appropriate communication under the signature of the Judge and seal of the Court, when the person whose appearance is required is of a rank which entitles him to such mark of consideration. The letter or other communication shall contain all the particulars required to be stated in the summons, and shall be treated in all respects as a summons.

In what case letter may be substituted for a summons.

LXV. When a letter or other communication is substituted for a summons under the authority of the last preceding Section, it may be transmitted through the Post Office, or by a special messenger selected by the Court, or in any other manner which the Court may deem sufficient; unless the party shall have an agent empowered to accept service of judicial process, in which case delivery to such agent shall be deemed sufficient service.

Service how to be made in such case.

LXVI. Whenever it is provided that any summons, letter, or other communication may be transmitted to the person to whom it is addressed through the Post Office, proof that the same was correctly addressed to such person at his place of residence, and that it was duly posted and registered according to Section XXXVIII of Act XVII of 1854 (*for the management of the Post Office, for the regulation of the duties of Postage, and for the punishment of offences against the Post Office*), shall be sufficient proof of the due service and delivery of the summons, letter, or other communication, in the absence of evidence to the contrary.

Service by summons letter, &c., transmitted through the post, how to be proved.

## OF SUITS AGAINST GOVERNMENT AND PUBLIC OFFICERS.

In suits against Government, summons to be served on Government Pleader. Appearance and answer

LXVII. If the suit be against the Government, the summons shall be served on the Government Pleader. The Court, in fixing the day for the Government to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the Government, and may extend the time at its discretion on the application of the Government Pleader. The Court may also, if it think proper, direct the attendance of a person who may be able to answer all material questions relating to the suit.

In suits against Government Officers for alleged official acts, summons to be served on them.

LXVIII. If the suit be against an Officer of the Government for an act which the plaintiff alleges to have been done by such Officer in his official capacity, the summons shall be served upon such Officer in the manner hereinbefore provided.

Court may grant extension of time for a reference to Government

LXIX. If the Officer on receiving the summons shall consider it proper to make a reference to Government before answering to the plaint, he may move the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channels; and the Court upon such motion may extend the time for so long as shall appear to it to be requisite.

If Government undertake defence, Government Pleader to appear and move that his appearance be noted in the Register.

LXX. If the Government shall undertake the defence of the suit, the Government Pleader shall be furnished with authority to appear and answer to the plaint; and, upon motion made by him, the Court shall order a note to that effect to be entered in the Register.

If no such motion be made, case to proceed between private parties. But defendant not liable to arrest before judgment.

LXXI. If such motion shall not be made by the Government Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties, except that the defendant shall not be liable to arrest before judgment.

Defendant may in certain cases be exempt-

LXXII. If in any such suit the Court shall require the personal appearance of the defendant, and the defendant

shall satisfy the Court that he cannot absent himself from his duty without injury to the public service, the Court shall exempt him from such appearance but he shall be liable to be examined in any way in which an absent witness may be examined.

ed from personal appearance.

#### HOW PERSONS NOT BEFORE THE COURT MAY BE MADE PARTIES TO A SUIT.

LXXIII. If it appear to the Court, at any hearing of a suit, that all the persons who may be entitled to, or who claim some share or interest in the subject matter of the suit, and who may be likely to be affected by the result, have not been made parties to the suit, the Court may adjourn the hearing of the suit to a future day to be fixed by the Court, and direct that such persons shall be made either plaintiffs or defendants in the suit as the case may be. In such case the Court shall issue a notice to such persons in the manner provided in this Act for the service of a summons on a defendant.

Court may adjourn hearing, and direct that parties interested in the suit shall be made parties to it.

#### OF ARREST BEFORE JUDGMENT.

LXXIV. If in any suit, not being a suit for land or other immoveable property, the defendant, with intent to avoid or delay the plaintiff, or to obstruct or delay the execution of any decree that may be passed against him, is about to leave the jurisdiction of the Court, or has disposed of or removed from the jurisdiction of the Court his property or any part thereof, the plaintiff may, either at the institution of the suit, or at any time thereafter until final judgment, make an application to the Court that security be taken for the appearance of the defendant to answer any judgement that may be passed against him in the suit.

In suits for moveable property, when defendant is about to leave jurisdiction &c, plaintiff may apply that security be taken.

LXXV. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be of opinion that there is probable cause for believing that the defendant is about to leave its jurisdiction with the intent of avoiding or delaying the plaintiff, or that he has disposed of or removed from the jurisdiction of the Court his property or any part thereof with the intent to

Court may issue warrant to bring up defendant to show cause why he should not give bail.

obstruct or delay the execution of any decree, it shall be lawful for the Court to issue a warrant to the proper Officer, enjoining him to bring the defendant before the Court, that he may show cause why he should not give good and sufficient bail for his appearance.

If defendant fail to show cause, Court may order him to give bail. Appeal.

LXXVI. If the defendant fail to show such cause, the Court shall order him to give bail for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit; and the surety or sureties shall undertake, in default of such appearance, to pay any sum of money that may be adjudged against the defendant in the suit, with costs. Any order made by the Court under the provisions of this Section shall be open to appeal by the defendant.

Deposit in lieu of bail.

LXXVII. Should a defendant offer, in lieu of bail for his appearance, to deposit a sum of money or other valuable property sufficient to answer the claim against him, with the costs of the suit, the Court may accept such deposit.

Defendant to be committed to custody, if he cannot give security.

LXXVIII. In the event of the defendant neither furnishing security nor offering a sufficient deposit, he may be committed to custody until the decision of the suit, or, if judgment be given against the defendant, until the execution of the decree if the Court shall so order.

Compensation to defendant arrested on insufficient grounds. Provision.

LXXIX. If it shall appear to the Court that the arrest of the defendant was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of One Thousand Rupees, as it may deem a reasonable compensation to the defendant for any injury or loss which he may have sustained by reason of such arrest. Provided that the Court shall not award a larger amount of compensation under this Section than it is com-

petent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such arrest.

**LXXX.** If in any suit the defendant is about to leave the British territories in India with intent to remain absent so long, that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court to the effect and in the manner aforesaid, and the procedure thereupon shall be in all respects the same as hereinbefore provided.

When the defendant is about to leave British India, the application to be made to the Court.

#### OF ATTACHMENT BEFORE JUDGMENT.

\* **LXXXI.** If the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property or any part thereof, or to remove any such property from the jurisdiction of the Court where the suit is pending, the plaintiff may apply to the Court, either at the time of the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfil any decree that may be passed against him in the suit, and, on his failing to give such security, to direct that any property, moveable or immovable, belonging to the defendant, shall be attached until the further order of the Court.

In what cases plaintiff may apply before judgment for security from defendant to fulfil decree, and in default for an attachment of defendant's property.

**LXXXII.** The application shall contain a specification of the property required to be attached, and the estimated value of each article or item thereof; and the plaintiff shall, at the time of making the application, declare that the defendant is about to dispose of or remove his property with such intent as aforesaid.

Application how to be made.

**LXXXIII.** If the Court, after examining the applicant and making such further investigation as it may consider neces-

Form of warrant to be issued.

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\* This and the nine following Sections have been extended as regards Bengal, by Act VI of 1862 Section 16 of the Lieutenant Governor of Bengal in Council, to all suits thereafter to be brought under that Act or Act X of 1859.

sary, shall be satisfied that the defendant is about to dispose of or remove his property, with intent to obstruct or delay the execution of the decree, it shall be lawful for the Court to issue a warrant to the proper Officer, commanding him to call upon the defendant, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order to produce and place at the disposal of the Court when required the said property or the value of the same or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security. The Court may also in the warrant direct the attachment until further order of the whole or any portion of the property specified in the application.

If cause be not shown or security be not furnished, property may be attached. Withdrawal of attachment.

LXXXIV. If the defendant fail to show such cause or to furnish the required security within the time fixed by the Court, the Court may direct that the property specified in the application, if not already attached, or such portion thereof as shall be sufficient to fulfil the decree, shall be attached until further order. If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it shall have been attached, the Court shall order the attachment to be withdrawn.

How the attachment is to be made Appeal.

LXXXV. The attachment shall be made according to the nature of the property to be attached, in the manner hereinafter prescribed for the attachment of property in execution of a decree for money. Any order for the attachment of property under the preceding Section shall be open to appeal by the defendant.

Claims to property attached before judgment how to be investigated

LXXXVI. In the event of any claim being preferred to the property attached before judgment, such claim shall be investigated in the manner hereinafter prescribed for the investigation of claims to property attached in execution of a decree for money.

Attachment may be removed, when security is furnished

LXXXVII. In all cases of attachment before judgment, the Court which passed the order for the attachment shall at any time remove the same, on the defendant furnishing security

as above required, together with security for the costs of the attachment.

LXXXVIII. If it shall appear to the Court that the attachment was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of One Thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the attachment of his property. Provided, that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such attachment.

Compensation for attachment applied for on insufficient grounds. &c. Proviso.

LXXXIX. Attachments before judgment shall not affect the rights of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

Attachment not to affect the rights of persons not parties to the suit, or bar the execution of decrees.

XC. If it shall appear to the Court by whose order the property may have been attached before judgment, that there is reasonable ground for supposing that the decree, in satisfaction of which the sale of the property is applied for, was obtained by fraud or other improper means, the Court may refuse to allow the property to be sold in execution, if the decree be a decree of that Court; or, if it be a decree of another Court, may stay the proceedings for a reasonable time to enable the plaintiff in the pending suit to adopt proceedings to set aside the decree.

Court may stay the sale of property attached, if the decree appear to have been fraudulently obtained.

XCI. Whenever lands paying revenue to Government, or a tenure liable to summary sale under the provisions of Regulation VIII. 1819, of the Bengal Code (*to declare the validity of certain tenures and to define the relative rights*

Special case in which party may be put in immediate possession.



of *Zemindars and Putnee Talookdars, &c.*), form the subject of a suit, if the party in possession of such lands or tenure shall neglect to pay the Government revenue, or the rent due to the proprietor of the estate as the case may be, and a public sale shall in consequence be ordered to take place, the party not in possession shall, upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court), be put in immediate possession of the lands or tenure; and the Court in its decree may award against the defendant the amount so paid, with interest thereupon at such rate as to the Court may seem fit, or may charge the amount so paid, with interest thereupon, at such rate as the Court may order, in any adjustment of accounts which may be directed in the final decree upon the suit.

#### OF INJUNCTIONS.

Cases in which an injunction to stay waste, &c., may be granted. Or in which a Receiver or Manager may be appointed. When the Collector may be appointed Receiver.

XCII. In any suit in which it shall be shown to the satisfaction of the Court that any property which is in dispute in the suit is in danger of being wasted, damaged, or alienated by any party to the suit, it shall be lawful for the Court to issue an Injunction to such party, commanding him to refrain from doing the particular act complained of, or to give such other orders for the purpose of staying and preventing him from wasting, damaging, or alienating the property, as to the Court may seem meet. And in all cases in which it may appear to the Court to be necessary for the preservation or the better management or custody of any property which is in dispute in a suit, it shall be lawful for the Court to appoint a Receiver or Manager of such property, and, if need be, to remove the person in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such Receiver or Manager, and to grant to such Receiver or Manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such

rents and profits, as to the Court may seem proper. If the property be land paying revenue to Government, and it is considered that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be Receiver and Manager of such land, unless the Government shall by any general order prohibit the appointment of Collectors for such purpose, or shall in any particular case prohibit the appointment of the Collector to be such Receiver.

**XCIII.** In any suit for restraining the defendant from the committal of any breach of contract or other injury, and whether the same be accompanied with any claim for damages or not, it shall be lawful for the plaintiff, at any time after the commencement of the suit, and whether before or after judgment, to apply to the Court for an Injunction to restrain the defendant from the repetition or the continuance of the breach of contract or wrongful act complained of, or the committal of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right, and such Injunction may be granted by the Court on such terms as to the duration of the Injunction, keeping an account, giving security, or otherwise, as to such Court shall seem reasonable and just, and in case of disobedience, such Injunction may be enforced by imprisonment in the same manner as a decree for specific performance: Provided always, that any order for an Injunction may be discharged or varied or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Injunction to  
restrain repetition  
or continuance of  
breach of contract,  
&c Proviso.

**XCIV.** Any order made under either of the last two preceding Sections shall be open to appeal by the defendant.

Appeal.

**XCV.** The Court may in every case, before granting an Injunction, direct such reasonable notice of the application for the same to be given to the opposite party as it shall see fit.

Before granting  
Injunction, Court  
may direct notice  
to be given to the  
opposite party.

Compensation to  
defendant for  
needless issue of  
Injunction Pro-  
viso.

XC'VI. If it shall appear to the Court that the Injunction was applied for on insufficient grounds, or if the claim of the plaintiff is dismissed or judgment is given against him by default or otherwise, and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such sum, not exceeding One Thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the issue of the injunction. Provided, that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of the issue of the Injunction.

#### OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

Court may allow  
plaintiff to with-  
draw from a suit,  
with liberty, to  
bring a fresh suit

XC'VII. If the plaintiff, at any time before final judgment, satisfy the Court that there are sufficient grounds for permitting him to withdraw from the suit with liberty to bring a fresh suit for the same matter, it shall be competent to the Court to grant such permission on such terms as to costs or otherwise as it may deem proper. In any such fresh suit the plaintiff shall be bound by the rules for the limitation of actions in the same manner as if the first suit had not been brought. If the plaintiff withdraw from the suit without such permission, he shall be precluded from bringing a fresh suit for the same matter.

Adjustment or  
con. promise  
Court may grant  
certificate for re-  
fund of stamp du-  
ty on plaint, if suit  
be adjusted Pro-  
viso.

\*XC'VIII. If a suit shall be adjusted by mutual agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise, or satisfaction shall be recorded, and the suit shall be disposed of in accordance therewith. On the application of the plaintiff reciting the substance of such agreement, compromise, satisfaction, the Court, if satisfied that such agree-

ment, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff authorizing him to receive back from the Collector the full amount of stamp-duty paid on the plaint, if the application shall have been presented before the settlement of issues, or half the amount if presented at any time after the settlement of issues and before any witness has been examined. Provided however, that no such certificate shall be granted, if the adjustment between the parties be such as to require a decree to pass on which process of execution can be taken out.

#### OF THE DEATH, MARRIAGE, AND BANKRUPTCY OR INSOLVENCY OF PARTIES.

XCIX. The death of a plaintiff or defendant shall not cause the suit to abate, if the cause of action survive.

*Suit not to abate  
by death in certain  
cases.*

C. If there be two or more plaintiffs or defendants, and one of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and against the surviving defendant or defendants.

*Proceeding in  
case of death of one  
of several plaintiffs  
or defendants, if  
the cause of action  
survives.*

CI. If there be two or more plaintiffs, and one of them die, and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone, but shall survive to them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the Register of the suit in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative of the deceased plaintiff. If no application shall be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and the legal representative of the deceased plaintiff shall be interested in and shall be bound by the judgment given in the suit, in the same manner as if the suit had proceeded at

*Proceeding in  
case of death of one  
of several plaintiffs  
where the cause of  
action accrues to  
the survivor and  
representative of  
the deceased*

his instance conjointly with the surviving plaintiff or plaintiffs.

Proceeding in case of death of sole or sole surviving plaintiff.

CII. In case of the death of a sole plaintiff or a sole surviving plaintiff, the Court may, on the application of the legal representative of such plaintiff, enter the name of such representative in the place of such plaintiff in the Register of the suit, and the suit shall thereupon proceed; if no such application shall be made to the Court, within what it may consider a reasonable time, by any person claiming to be the legal representative of the deceased sole plaintiff or sole surviving plaintiff, it shall be competent to the Court to pass an order that the suit shall abate, and to award to the defendant the reasonable costs which he may have incurred in defending the suit, to be recovered from the estate of the deceased sole plaintiff or surviving plaintiff; or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs as may seem fit, pass such other order for bringing in the legal representative of the deceased sole plaintiff or surviving plaintiff, and for proceeding with the suit in order to a final determination of the matters in dispute, as may appear just and proper in the circumstances of the case.

Proceeding in case of dispute as to who is the legal representative of a deceased plaintiff.

CIII. If any dispute arise as to who is the legal representative of a deceased plaintiff, it shall be competent to the Court either to stay the suit until the fact has been duly determined in another suit, or to decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Proceeding in case of death of one of several defendants, or of a sole or sole surviving defendant

CIV. If there be two or more defendants, and one of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant, or sole surviving defendant, where the action survives, the plaintiff may make an application to the Court, specifying the name, description, and place of abode of any person whom the plaintiff alleges to be the legal representative of such defendant, and whom he

desires to be made the defendant in his stead ; and the Court shall thereupon enter the name of such representative in the Register of the suit in the place of such defendant, and shall issue a summons to him to appear on a day to be therein mentioned to defend the suit ; and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit.

CV. The marriage of a woman, plaintiff or defendant, shall not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and the decree thereupon may be executed upon the wife alone ; and, if the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also ; and in case of judgment for the wife, execution of the decree may, with the permission of the Court, be issued upon the application of the husband, where the husband is by law entitled to the money or thing which may be the subject of the decree.

Marriage of a female plaintiff or defendant not to abate the suit.

CVI. The bankruptcy or insolvency of the plaintiff, in any suit which the Assignee might maintain for the benefit of the creditors, shall not be a valid objection to the continuance of such suit, unless the Assignee shall decline to continue the suit and to give security for the costs thereof within such reasonable time as the Court may order ; if the Assignee neglect or refuse to continue the suit and to give such security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, plead the bankruptcy or insolvency of the plaintiff as a reason for abating the suit.

Bankruptcy or insolvency when not to abate the suit.

#### OF NOTICES TO PRODUCE, AND HOW THEY ARE TO BE SERVED.

CVII. Whenever any of the parties to a suit is desirous that any document, writing, or other thing, which he believes to be in the possession or power of another of the parties thereto, should be produced at any hearing of the suit, and the production of such document, writing, or other

Two notices in writing to be delivered to the proper Officer of the

thing has not previously been required under the provisions of Sections 40 and 43, he shall at the earliest opportunity deliver to the Court two notices in writing to the party in whose possession or power he believes the document, writing, or other thing to be, calling upon him to produce the same, and one of such notices shall be filed in Court, and the other shall be delivered by the Court to the Nazir or other proper Officer, to be served upon such party.

Service of process how to be made on a party who has not appointed a pleader to act for him.

CVIII. In all cases in which a party to a suit has not appointed a pleader to act for him, all notices and other judicial processes shall be served upon such party in the manner hereinbefore provided for the service of a summons upon a defendant to appear and answer.

#### OF THE APPEARANCE OF THE PARTIES AND CONSEQUENCES OF NON-APPEARANCE.

Parties must appear in person or by pleader.

CIX. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by a pleader, and the suit shall then be heard, unless the hearing be adjourned to a future day which shall be fixed by the Court.

If neither party appear, suit to be dismissed with liberty to the plaintiff to bring a fresh suit.

CX. If, on the day fixed for the defendant to appear and answer, or any other day subsequent thereto to which the hearing of the suit may be adjourned, neither party shall appear, either in person or by a pleader, when duly called upon by the Court, the suit shall be dismissed. Whenever a suit is dismissed under the provisions of this Section, the plaintiff shall be at liberty to bring a fresh suit, unless precluded by the rules for the limitation of actions; or, if he shall within the period of thirty days satisfy the Court that there was a sufficient excuse for his non-appearance, the Court may issue a fresh summons upon the plaint already filed.

If plaintiff only appear, Court may proceed ex parte, if due service of summons be proved. If defendant

CXI. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the

Court that the summons was duly served, the Court shall proceed to hear the suit *ex-parte*. If the defendant appear on any subsequent day to which the hearing of the suit is adjourned, and shall assign good and sufficient cause for his previous non-appearance, he may, upon such terms as the Court may direct as to payment of costs or otherwise, be heard in answer to the suit in like manner as if he had appeared on the day fixed for his appearance.

appear on day of adjourned hearing and assign good cause his previous non-appearance may be heard.

CXII. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall not be proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes.

If plaintiff only appear, and due service of summons be not proved, Court may order second summons.

CXIII. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was served on the defendant, but not in sufficient time to enable the defendant to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court, and may direct notice of such day to be given to the defendant.

If plaintiff only appear, and service of summons be proved, but not in due time, Court may adjourn hearing and direct notice to be given to defendant.

CXIV. If the defendant shall appear in person or by a pleader, and the plaintiff shall not appear in person or by a pleader, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the claim, in which case the Court shall pass judgment against the defendant upon such admission. When judgment is passed against a plaintiff by default he shall be precluded from bringing a fresh suit in respect of the same cause of action.

If defendant only appear, Court to by default against plaintiff, unless defendant admit the claim

CXV. When there are two or more plaintiffs, any one or more of them may be authorized to appear, plead, and act for the other or others of them : and in like manner, when there are two or more defendants, any one or more of them

When there are several plaintiffs or defendants, each may authorize the other to appear for him.



may be authorized to appear, plead, and act for the other or others of them ; Provided, that the authority shall in all cases be in writing, and shall be filed in the Court ; when so filed, it shall be as effectual to all intents and purposes as if the person so authorized to appear, plead, and act, were a pleader of the Court.

Consequence of non-appearance of one or more of plaintiffs, or defendants.

CXVI. If there are two or more plaintiffs, and one or more of them shall appear in person or by a pleader or by a co-plaintiff duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-plaintiff duly authorized, it shall be competent to the Court to proceed with the suit at the instance of the plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared, and to pass such order as may be just and proper in the circumstances of the case; and if there are two or more defendants, and one or more of them shall appear in person or by a pleader or by a co-defendant duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-defendant duly authorized, the Court shall proceed with the suit to judgment, and shall at the time of passing judgment give such order, with respect to the defendant or defendants who shall not have appeared, as shall be just and proper in the circumstances of the case.

Consequence of non-appearance, without sufficient cause, of any party to a suit ordered to appear in person.

CXVII. If any plaintiff or defendant, who shall have been ordered or summoned to appear personally under the provisions of Section 42, shall not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, such plaintiff or defendant shall be subject to all the provisions of the foregoing Sections applicable to plaintiffs and defendants respectively, who do not appear either in person or by pleader.

Court to receive declaration in support of cause

CXVIII. In support of the cause shown by a plaintiff or defendant for failure to appear in person, the Court shall receive any declaration in writing on unstamped paper, if signed by such plaintiff or defendant, and verified in the manner hereinbefore provided for the verification of plaints.

CXIX. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all cases in which judgment may be passed *ex parte* against a defendant, he may apply, within a reasonable time, not exceeding thirty days after any process for enforcing the judgment has been executed, to the Court by which the judgment was passed, for an order to set it aside; and if it shall be proved to the satisfaction of the Court, that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the suit. In all cases of judgment against a plaintiff by default, he may apply, within thirty days from the date of the judgment, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment by default and shall appoint a day for proceeding with the suit. But no judgment shall be set aside on any such application as aforesaid, unless notice thereof have been served on the opposite party. In all cases in which the Court shall pass an order under this Section for setting aside a judgment, the order shall be final; but in all appealable cases in which the Court shall reject the application, an appeal shall lie from the order of rejection to the tribunal to which the final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from such final decision, and be written upon stamp paper of the value prescribed for petitions to the Court where a stamp is required for petitions.

No appeal from judgments passed *ex parte* or by default. When and how judgment *ex parte* may be set aside. When and how judgment by default may be set aside. No judgment to be set aside without notice. Order for setting aside judgment to be final. In appealable cause, appeal to lie from order of rejection. Proviso.

#### OF WRITTEN STATEMENTS.

CXX. The parties or their pleaders may tender, at the first hearing of the suit, written statements of their respective cases, and the Court shall receive the same and put

Written statements may be tendered at the first hearing, on stamp paper.

them on the record. Such statements shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required for petitions.

Particulars of set-off to be given in a written statement. Abandonment of excess of set-off over claim.

CXXI. If in a suit for debt the defendant desire to set off against the claim of the plaintiff the amount of any debt due to him from the plaintiff, he shall tender a written statement containing the particulars of his demand, and the Court shall thereupon enquire into the same. Provided that, if the sum claimed by the defendant exceed the amount cognizable by the Court, the defendant shall not be allowed to set-off the same, unless he abandon the excess.

No written statement to be received after first hearing, unless called for by the Court.

CXXII. No written statement shall be received after the first hearing of the suit, unless called for by the Court. But it shall be competent to the Court, at any time before final judgment, to call for a written statement, or an additional written statement from any of the parties. When such statements are called for by the Court, they shall be received on plain paper.

How written statements are to be framed. Written statements to be subscribed and verified.

CXXIII. Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative, nor by way of answer one to the other ; but each statement shall be confined, as much as possible, to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he believes he will be able to prove, if called upon by the Court. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and no written statement shall be received, unless it be so subscribed and verified.

Court may reject a written statement if argumentative, prolix, or irrelevant.

CXXIV. If it shall appear to the Court that any written statement presented by or on behalf of a party, whether the same have been spontaneously tendered or have been called for by the Court, is argumentative or unnecessarily prolix, or that it contains matter irrelevant to the suit, the Court may reject the same, and return it to the party with the order of rejection endorsed thereon ; and it shall not be competent to

a party whose written statement has been rejected for any of these causes, to present another written statement, unless it shall be expressly called for or allowed by the Court.

#### OF THE EXAMINATION OF THE PARTIES.

CXXV. At the first hearing of the suit, and if necessary at any subsequent hearing, any party who appears in person or is present in Court, or the pleader of any party who appears by a pleader, or, if the pleader be accompanied by another person able to answer all material questions relating to the suit, then such other person may be examined orally by the Court. Such examination shall (unless the pleader be the person examined) be upon oath or affirmation, or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses. The substance of the examination shall be reduced to writing and form part of the record.

Oral examination of party, &c. Oath. Substance of the examination to be written

CXXVI. If any party who appears in person or is present in Court shall, without lawful excuse, refuse to answer any material question relating to the suit which the Court may think proper to put to such party, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Consequence of refusal of party to answer.

CXXVII. If the pleader of any party who shall appear by a pleader shall refuse or be unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Court may postpone the hearing of the suit to a future day, and direct that such party shall attend in person on such day; and if the party so directed to attend shall, without lawful excuse, fail to appear in person on the day to be so appointed, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Consequence of refusal or inability of pleader to answer

## OF THE PRODUCTION OF DOCUMENTS.

**Documentary evidence to be produced at first hearing.**

CXXVIII. The parties or their pleaders shall bring with them, and have in readiness at the first hearing of the suit to be produced when called upon by the Court, all their documentary evidence of every description which may not already have been filed in Court, and all documents, writings or other things which may have been specified in any notice, which may have been served on them respectively within a reasonable time before the hearing of the suit; and no documentary evidence of any kind, which the parties or any of them may desire to produce, shall be received by the Court at any subsequent stage of the proceedings, unless good cause be shown to its satisfaction for the non-production thereof at the first hearing.

**Exhibits to be received and inspected by the Court. Rejection of Exhibits.**

CXXIX. All Exhibits produced by the parties shall be received and inspected by the Court; but it shall be competent to the Court, after inspection, to reject any Exhibit which it may consider irrelevant or otherwise inadmissible, recording the grounds of such rejection.

CXXX, CXXXI—*Repealed by Act XXXVI, 1860, Section 13. Cl. 4.*

**Admitted Exhibits to be marked and filed. Proviso.**

CXXXII. When an Exhibit is received by the Court and admitted in evidence, it shall be endorsed with the number and title of the suit, the name of the party producing it, and the date on which it was produced, and shall be filed as part of the record. Provided that, if the exhibit be an entry in any shop book or other book, the party on whose behalf such book is produced shall furnish a copy of the entry, which copy shall be endorsed as aforesaid, and shall be filed as part of the record, and the book shall be returned to the party producing it.

**No stamp duty for production or filing of Exhibits.**

CXXXIII. No stamp duty shall be leviable in respect of the production or filing of any Exhibit, any thing contained in any Regulation or Act notwithstanding.

**Rejected Exhibits to be marked and returned, unless detained by the Court.**

CXXXIV. When an Exhibit is rejected by the Court, it shall be endorsed in the manner specified in Section 132 with

the addition of the word "rejected," and the endorsement shall be subscribed by the Judge. The exhibit shall then be returned to the party who produced it, unless the Court shall think proper, for special reasons (as on suspicion of forgery), to detain it.

CXXXV. When the time for preferring an appeal from the decision passed in the suit has elapsed, or if an appeal has been preferred from such decision then after the appeal has been finally disposed of, any person, whether a party to the suit or not, who may be desirous of receiving back any exhibit produced by him in the suit, shall be entitled, on application to the Court in which such exhibit may be, to receive back the same, unless the further use of such exhibit has been superseded by the terms of the decree, or the Court has directed it to be detained for purposes of public justice.

Exhibit may be returned before the time limited, for special reasons. Certified copy to be kept.

CXXXVI. Any exhibit may be returned before the time mentioned in the last preceding Section, if the Court in which the document may be shall think proper, for special reasons, to order its return. But in every case a copy, properly certified, and made at the expense of the applicant, shall be substituted for the original in the record of the suit.

Receipt to be given for returned Exhibit.

CXXXVII. Whenever an exhibit once received by a Court of Justice and admitted in evidence is returned, a receipt shall be given by the party receiving it in a receipt-book kept for the purpose.

Court may send for papers. Except State papers.

CXXXVIII. Any Civil Court may of its own accord, or upon the application of any of the parties to a suit, send for, either from its own record or from any other public Office or Court, the record of any other suit or case, or any other official papers (not being documents relating to affairs of State the production of which may be contrary to good policy), and inspect the same, when the inspection of such record or papers shall appear likely to elucidate the facts of the suit before the Court, and to promote the ends of justice.

Framing of issues

## OF THE SETTLEMENT OF ISSUES.

After the time for appeal has elapsed, exhibit admitted in evidence may be returned.

CXXXIX. At the first hearing of the suit, the Court shall enquire and ascertain upon what questions of law or fact the parties are at issue, and shall thereupon proceed to frame and record the issues of law and fact on which the right decision of the case may depend. The Court may frame the issues from the allegations of fact which it collects from the oral examination of the parties or their pleaders, notwithstanding any difference between such allegations of fact and the allegations of fact contained in the written statements, if any, tendered by the parties or their pleaders.

Court may examine witnesses or documents before framing the issues.

CXL. If the Court shall be of opinion that the issues cannot be correctly framed without the examination of some person other than the persons already before the Court, or without the reading of some document not produced by any of such persons, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may compel the attendance of such person, or the production of the document by the person in whose hands it may be, by summons or other suitable process . . .

Amendment of issues, Additional issues.

CXLI. At any time before the decision of the case, the Court may amend the issues or frame additional issues on such terms as to it shall seem fit, and all such amendments as may be necessary for the purpose of determining the real question or controversy between the parties shall be so made.

## OF ISSUES BY AGREEMENT OF PARTIES.

Questions of fact or law may by agreement be stated by the parties in the form of an issue.

CXLII. When the parties to a suit are agreed as to the question or questions of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing, which shall not be subject to any stamp duty, that, upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other of them, or that upon such finding some property specified in

the agreement, and in dispute in the suit, shall be delivered by one of the parties to the other of them, or that upon such finding one or more of the parties shall do or perform some particular legal act, or shall refrain from doing or performing some particular act, specified in the agreement, and having reference to the matter in dispute.

CXLIII. If the Court shall be satisfied, after an examination of the parties or their pleaders, and taking such evidence as it may deem proper, that the agreement was duly executed by the parties and that the parties have a *bond fide* interest in the decision of such question, and that the same is fit to be tried and decided, it may proceed to record and try the same, and deliver its finding or opinion thereon in the same manner as if the issue had been framed by the Court, and may, upon the finding or decision on such issue, give judgment for the sum so agreed on or so ascertained as aforesaid, or otherwise according to the terms of the agreement; and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

Court, if the agreement was executed bona fide may give judgment.

#### WHEN THE SUIT MAY BE DISPOSED OF AT THE FIRST HEARING.

CXLIV. If at the first hearing of a suit it shall appear that the parties are not at issue on any question of law or fact, the Court may at once give judgment.

If the parties are not at issue on law or fact.

CXLV. When the parties are at issue on some question of law or fact, and issues have been framed by the Court as hereinbefore provided, if the Court shall be satisfied that no further argument or evidence than such as the parties or their pleaders can at once supply is required upon any such of the issues of law or fact as may be sufficient for the decision of the suit, the Court, after hearing such argument and evidence, may proceed to determine such issue or issues, and, if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons shall

If the parties are at issue on questions of law or fact. Court may determine the issues and give judgment. Proviso.



have been issued for the settlement of issues only or for the final disposal of the suit; otherwise the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence or for such further argument as the case may require. Provided, that if the summons shall have been issued for the final disposal of the suit, and either party shall fail without sufficient cause to produce the evidence on which he relies, the Court may at once give judgment.

#### OF ADJOURNMENTS.

Court may grant time, or adjourn. *Proviso.*

CXLVI. The Court may, if sufficient cause be shown, at any stage of the suit, grant time to the parties or to either of them, and may from time to time adjourn the hearing of the suit; and in all such cases the Court shall fix a day for the further hearing of the suit. Provided, that in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Court shall otherwise direct.

How the Court is to proceed, if the parties fail to appear.

CXLVII. If, on any day to which the hearing of the suit may be adjourned, the parties or either of them shall not appear in person or by pleader, the Court may proceed to dispose of the suit in the manner specified in Section 110, Section 111, or Section 114 as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

Court to decide, notwithstanding either party fail to produce proofs or witnesses.

CXLVIII. If either party to a suit to whom time may have been granted shall fail to produce his proofs, or to cause the attendance of his witnesses, or to perform any other act for which time may have been allowed, the Court shall proceed to a decision of the suit on the record, notwithstanding such default.

#### OF SUMMONING WITNESSES.

Application for summons.

CXLIX. The parties or their pleaders may, at any time after the issue of the summons to the defendant, if the summons be for the final disposal of the suit, or after the issues

have been recorded, if the summons to the defendant be for the settlement of issues only, obtain, on application to the Court, summonses to witnesses or other persons to attend either to give evidence or to produce documents, and in any such summons the names of any number of persons may be inserted.

CL. No stamp duty shall be leviable in respect of any application for the summons of a witness or other person to attend either to give evidence or to produce a document, anything contained in any Regulation or Act notwithstanding.

No stamp duty on application for summons.

CLI. The person applying for a summons shall pay into Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witness or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. If the Court be a subordinate Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) established by the Court to which such Court shall be immediately subordinate. The sum so paid into Court shall be tendered to the witness or other person at the time of serving the summons, if it can be served personally. If it shall appear to the Court that the sum paid into Court on account of the travelling and other expenses of the witness or other person in passing to and from the Court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, or may discharge the witness without requiring him to give evidence. If it shall be necessary to detain the witness or other person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned to pay into Court such sum as may be sufficient to defray

Expenses of witnesses to be paid before issue of summons.

Tender.

Insufficiency of sum.

Detention of witness.

the expenses of his detention for such further period, and in default of such deposit being made, may order the witness to be discharged without requiring him to give evidence.

Time, place, and purpose of attendance to be specified.

CLII. Every summons for the attendance of a witness or other person shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document which the witness or other person may be called on to produce shall be described in the summons with convenient certainty.

Summons to produce a document.

CLIII. Any person, whether a party to a suit or not, may be summoned to produce a document, without being summoned to give evidence; and any person, summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

#### SERVICE OF SUMMONS ON A WITNESS.

How and when the summons shall be served.

CLIV. Every summons to a witness or other person shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness or other person, to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

Service to be on whom

CLV. Whenever it may be practicable, the service of the summons shall be upon the person thereby required to attend, but when he cannot be found, the service may be made on any adult male member of his family residing with him.

When the summons cannot be served, it is to be returned.

CLVI. When the person required to attend cannot be found, and there is no adult male member of his family on whom the summons can be served, the serving Officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it.

CLVII. The serving Officer shall, in all cases, in which the summons has been served, endorse on the original summons the time when and the manner in which it was served.

**Time and manner of service to be endorsed.**

CLVIII. If the person required to attend be resident within the jurisdiction of any other Court than that in which the suit is pending, the summons shall be transmitted by the Court in which the suit is pending, to any Court having jurisdiction at the place where the witness reside, by which it can be most conveniently served; and the Court to which the summons is sent shall, upon receipt thereof, deliver the same to the Nazir or other proper officer of such Court, to be served in the manner above directed; and upon the return of the summons by the serving Officer, it shall be transmitted to the Court from whence it originally issued.

**Service on a witness who resides in another jurisdiction.**

CLIX. If the summons for the attendance of any person either to give evidence or to produce a document cannot be served in either of the ways hereinbefore specified, the Court, on being certified thereof by the return of the serving Officer, and upon proof that the evidence of such witness or the production of the document is material, and that the witness or other person absconds or keeps out of the way for the purpose of avoiding the service of the summons, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed in some conspicuous place upon his house or place of abode; and if such person shall not attend at the time and place named in such proclamation, the Court may, at the instance of the party on whose application the summons was issued, make an order for the attachment of the moveable and immoveable property of such person, to such amount as the Court shall deem reasonable, not being in excess of the amount of the costs of attachment and of any fine to which the person may be liable under the provisions of the following Section.

**When a witness absconds, his property may be attached.**

CLX. If, on the attachment of the property, such witness or other person shall appear and satisfy the Court that

**How to proceed with the witness on his appearance.**

he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as it shall deem fit. If such witness or other person shall not appear, or appearing shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not such a notice of the proclamation as aforesaid, it shall be lawful for the Court to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Court may impose upon such witness or other person under the provisions of any law for the time being in force for the punishment of a witness who may abscond or keep out of the way in order to avoid the service of a summons. If the witness or other person shall pay into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

#### OF THE EXAMINATION OF PARTIES AS WITNESSES.

A party to a suit appearing in person may be examined.

CLXI. When a party to a suit appears in person at any hearing of the suit, he may be examined as a witness, either in his own behalf or on behalf of any other party to the suit, in the same way as if he were not a party thereto.

Special application for examination of a party as a witness.

CLXII. If any party to a suit shall require to enforce the attendance of any other party thereto as a witness, he shall, by himself or his pleader, make a special application to the Court for an order requiring the attendance of the party, and shall show, to the satisfaction of the Court, sufficient grounds in support of such application, otherwise a summons shall not be issued.

The Court may first issue a notice to show cause.

CLXIII. The Court, if it think fit, may, before making such order, cause notice to be given to the party or his pleader, fixing a day for such party, to show cause why he should not attend and give evidence; and may also, from

time to time, if necessary, for good and sufficient reason, enlarge the time for such purpose.

CLXIV. In support of the cause shown, the Court shall receive any declaration in writing of the party, on unstamped paper, if signed by him and verified in the manner hereinbefore provided for the verification of plaints, and delivered into the Court by himself or his pleader.

**Court shall receive a written declaration in support of the cause shown.**

CLXV. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to attend and give evidence.

**If cause not sufficient summons to issue.**

CLXVI. If the Court shall think it necessary for the ends of justice to examine any party to the suit or to inspect any document in his possession or power, the Court may, of its own accord, in any stage of the suit, cause such party to be summoned to attend as a witness to give evidence, or to produce such document if in his possession or power, on a day to be appointed in the summons, and may examine such party as a witness in open Court, or may cause such party to be examined in such other manner as the Court may direct.

**Court may of its own accord at any time summon a witness.**

#### ATTENDANCE OF WITNESSES, AND CONSEQUENCE OF NON-ATTENDANCE.

CLXVII. Any person who shall be summoned to appear and give evidence in a suit shall be bound to attend at the time and place named in the summons for that purpose.

**Witnesses summoned must attend**

CLXVIII. If any person, on whom any summons to give evidence or produce a document shall have been served in either of the ways specified in Section 155 shall, without lawful excuse, fail to comply with the summons, the Court may order such person to be apprehended and brought before the Court. If such person abscond or keep out of the way, so that he cannot be apprehended or brought before the Court, his property shall be liable to attachment and sale in the manner and subject to the rules provided in Sections

**Consequences of non-attendance.**

159 and 160 with respect to a witness or other person on whom the service of a summons cannot be effected.

Consequence of refusal to give evidence.

CLXIX. If any witness, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may commit such witness to close custody for such reasonable time as it may deem proper, unless he shall, in the meantime, consent to give his evidence, or to produce the document. If after the expiration of such time the witness shall persist in his refusal, the Court may proceed to deal with him according to the provisions of any law for the time being in force for the punishment of persons refusing to give evidence.

Consequence of non-attendance or refusal of a party to the suit to give evidence.

CLXX. If any person, being a party to the suit, who shall be ordered to attend to give evidence or produce a document, shall, without lawful excuse, fail to comply with such order, or, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may either pass judgment against the party so failing or refusing, or make such other order in relation to the suit as the Court may deem proper in the circumstances of the case.

Any person present in Court may be called upon to give evidence.

CLXXI. Any person present in Court, whether a party to the suit or not, may be called upon by the Court to give evidence and to produce any document then and there in his actual possession or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or to produce such document, and shall be liable to be dealt with by the Court as a party or witness, as the case may be, would, under any of the preceding provisions, be liable to be dealt with for any refusal to obey the order of the Court.

#### WHEN AND HOW WITNESSES ARE TO BE EXAMINED.

Witnesses to be examined at the hearing in open Court.

CLXXII. On the day appointed for the hearing of the suit or on some other day to which the hearing may be

adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court, in the presence and hearing and under the personal direction and superintendence of the Judge. In cases in which an appeal lies to a higher tribunal, the evidence of each witness given upon such examination shall be taken down in writing, in the language in ordinary use in proceedings before the Court, by or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer, but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties to the suit or their pleaders, or such of them as are in attendance, and shall, if necessary, be corrected, and shall be signed by the Judge. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down in writing to be interpreted to him in the language in which it was given. Where all the parties to the suit present, and the pleaders of such as are absent, consent to have such evidence as is given in English taken down in English, the Judge may so take it down in his own hand. It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing or any party or his pleader shall require it. If any question put to a witness be objected to by either of the parties or their pleaders, and the Court shall allow the same to be put, the question and answer shall be taken down, and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the decision of the Court upon the objection. The Court shall record such remarks as it may think material respecting the demeanour of the witness while under examination. In cases in which the evidence is not taken down, in writing by the Judge himself, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substance of what such witness

Evidence how  
to be taken in  
appealable cases.

Objection to  
questions.

Memorandum  
of substance of  
evidence to be  
made by Judge.



**Evidence how to be taken in cases no appealable.**

deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall accompany the record. In cases in which an appeal does not lie to a higher tribunal, it shall not be necessary to take down the depositions of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record. If the Judge shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and in cases not appealable shall cause such memorandum to be made in writing from his dictation in open Court, and shall sign the same, and such memorandum shall form part of the record.

**A witness may for sufficient cause be examined immediately.**

CLXXIII. If a witness be about to leave the jurisdiction of the Court, or other good and sufficient cause can be shown to the satisfaction of the Court why his examination should be taken immediately, it shall be competent to the Court, upon the application of either party or of the witness, at any time after the institution of the suit, to take the examination of such witness forthwith, or on any day that may be fixed for that purpose, of which due notice shall be given to the parties if the day be fixed in their absence. The witness shall be examined, and his deposition shall be taken down in writing, in the manner hereinbefore prescribed; and the deposition so taken down may be read in evidence at any hearing of the suit.

**Witnesses to be examined upon oath, or according to the law for the time being.**

CLXXIV. All witnesses shall be examined upon oath or affirmation or otherwise, according to the provisions of the law for the time being in force in relation to the examination of witnesses.

#### OF COMMISSIONS TO EXAMINE ABSENT WITNESSES AND MAKE LOCAL ENQUIRIES.

**Cases in which Court may issue a Commission to examine witnesses.**

CLXXV. When the evidence of a witness is required who is resident at some place distant more than a hundred miles

from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Court to be personally examined, or is a person exempted by reason of rank or sex from personal appearance in Court; the Court may, of its own motion, or on the application of any of the parties to the suit, or on the representation of the witness, order a Commission to issue for the examination of such witness on interrogatories or otherwise; and may, by the same or any subsequent order, give all such directions for taking such examinations as may appear reasonable and just. If the witness be resident within the jurisdiction of the Court issuing the Commission, the Commission may be issued to any officer of the Court, or to any subordinate Court, or to any other person or persons whom the Court issuing the Commission may think proper to appoint. If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the Commission, and not within the local jurisdiction of Her Majesty's Supreme Court, but within the jurisdiction of the Sudder Court, the Commission shall ordinarily be issued to the Court within whose jurisdiction the witness may reside, and which can most conveniently execute the same, but, under special circumstances, the Commission may be issued to any other person or persons whom the Court issuing the Commission may think proper to appoint.

When the witness resides within the jurisdiction of the Court.

When within the jurisdiction of the Sudder Court.

CLXXVI If the witness be resident within the local jurisdiction of Her Majesty's Supreme Court, the Commission shall ordinarily be issued to the Court of Small Causes held under Act IX of 1850 (*for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay*), but may, under special circumstances, be directed to any person or persons whom the Court issuing the Commission may think proper to appoint.

When within the jurisdiction of the Supreme Court.

CLXXVII. When the evidence of a witness is required, who is resident at some place not within the jurisdiction of the Sudder Court or of Her Majesty's Supreme Court, but within the British territories in India or within the territories of a

When witness is not within the jurisdiction of the Sudder or Supreme Court, but within the British Territories.

es or those of  
any Native allied  
Prince or State.

Native Prince or State in alliance with the British Government, the Court, if it be satisfied that the evidence of such witness is necessary, may, of its own motion or on the representation of any of the parties to the suit, issue a Commission for the examination of the witness; Provided that, if the suit be pending in any Court subordinate to the principal Civil Court of a District, such subordinate Court shall not issue the Commission, but the principal Civil Court of the District may issue the Commission on the application of the subordinate Court.

When witness is  
not within either  
of the said territo-  
ries.

CLXXVIII. When the evidence of a witness is required, who is resident at some place beyond the said territories and not within the territories of a Native Prince or State in alliance with the British Government, the Sudder Court, if the suit in which the evidence of the witness is required be pending in that Court and the Court be satisfied that such evidence is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a Commission to examine the witness; if the suit be not pending in the Sudder Court, that Court may issue the Commission on the application of the Court in which the suit is pending. In all such cases, the Commission may be issued to any person or persons whom the Sudder Court may think proper to appoint.

Commission to be  
returned to the  
Court, with the  
depositions. When  
depositions may be  
read in evidence.

CLXXIX. After the Commission has been duly executed, it shall be returned, together with the deposition of the witness who may have been examined thereunder, to the Court out of which the Commission issued, unless otherwise directed by the order for issuing the Commission; in which case it shall be returned in terms of such order, and the Commission and the return thereto and the deposition of the witness who may have been examined under such Commission shall in all cases form part of the record of the suit. But no deposition taken under a Commission shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant

without collusion more than a hundred miles from the place where the Court is held, or exempted by reason of rank or sex from personal appearance in Court, or unless the Court shall, at its discretion, dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same.

CLXXX. In any suit or other judicial proceeding in which the Court may deem a local investigation to be requisite or proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of any mesne profits or damages, the Court may issue a Commission to an officer of the Court appointed to execute such Commissions, or, if there be no such officer, to any suitable person, directing him to make such investigation and to report thereon to the Court. In all such cases, unless otherwise directed by the order of appointment, the Commissioner shall have power to examine any witnesses who may be produced to him by the parties or any of them, the parties themselves, and any other persons whom he may think proper to call upon to give evidence in the matters referred to him; and also to call for and examine documents and other papers relevant to the subject of inquiry; and persons not attending on the requisition of the Commissioner, or refusing to give their testimony or to produce any documents or other papers, shall be subject to the like disadvantages penalties and punishments, by order of the Court on the report of the Commissioner, as they would incur for the same offences in suits tried before the Court. The Commissioner, after such local inspection as he may deem necessary, and after reducing to writing, in the manner herein before prescribed for taking the depositions of witnesses in the presence of the Judge, the depositions taken by him, shall return the depositions, together with his report in writing subscribed with his name, to the Court. The report and depositions shall be taken as evidence in the suit and shall form part of the record; but it shall be competent to the Court,

Commission for  
loc l investiga-  
tions. The report  
and depositions to  
be taken as evi-  
dence. Commis-  
sioner may be ex-  
amined.

or to the parties to the suit or any of them, with the permission of the Court, to examine the Commissioner personally in open Court, touching any of the matters referred to him or mentioned in his report, or the manner in which he may have conducted the investigation.

A. Commis-  
sioner may be ap-  
pointed to inves-  
tigate accounts.

CLXXXI. In any suit or other judicial proceeding in which an investigation or adjustment of accounts may be necessary, it shall be lawful for the Court to appoint such officer or other person as aforesaid to be a Commissioner for the purpose of making such investigation or adjustment, and to direct that the parties or their attorneys or pleaders shall attend upon the Commissioner during such investigation or adjustment. In all such cases, the Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary for his information and guidance; and the instructions shall distinctly specify, whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry, or also to report his own opinion on the point referred for his investigation. The proceedings of the Commissioner shall be received in evidence in the case, unless the Court may have reason to be dissatisfied with them, in which case the Court shall make such further inquiry as may be requisite, and shall pass such ultimate judgment or order as may appear to it to be right and proper in the circumstances of the case.

Expenses of  
Commission to  
be paid into  
Court, before  
issue thereof.

CLXXXII. Whenever a Commission is issued either for taking evidence or for a local investigation or an investigation into accounts, the Court, before issuing the Commission, may order such sum as may be thought reasonable for the expenses of the Commission to be paid into Court by the party at whose instance or for whose benefit the Commission is issued.

#### OF JUDGMENT AND DECREE.

When judg-  
ment is to be  
pronounced.

CLXXXIII. When the exhibits have been perused, the witnesses examined, and the parties heard in person or by their respective pleaders, the Court shall pronounce its judgment. The judgment shall be pronounced in open Court,

either immediately or on some future day of which due notice shall be given to the parties or their pleaders.

CLXXXIV. The judgment shall be written in the vernacular language of the Judge. Provided that, if the vernacular language of the Judge be not English, and the Judge be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language, and prefer to write his judgment in it, the judgment may be written in English.

Judgment to be in the vernacular language of the Judge. Proviso.

CLXXXV. The judgment shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge in open Court at the time of pronouncing it. Whenever the judgment is written in any other language than that which is in ordinary use in the Court, the judgment shall be translated into the language in ordinary use in the Court, and the translations shall also be signed by the Judge.

Judgment what to contain. Judgment to be translated.

CLXXXVI. In all suits in which issues have been framed, the Court shall state its finding or decision on each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

Court to state its decision on each issue. Proviso.

CLXXXVII. The judgment shall in all cases direct by whom the costs of each party are to be paid, whether by himself or by another party, and whether in whole or in what part or proportion; and the Court shall have full power to award and apportion costs in any manner it may deem proper.

Judgment to direct by whom costs are to be paid.

CLXXXVIII. Under the denomination of costs are included the whole of the expenses necessarily incurred by either party on account of the suit and in enforcing the decree passed therein, such as the expense of stamps, of summoning the defendants and witnesses, and of other processes, or of procuring copies of documents, fees of pleaders, charges of witnesses, and expenses of Commissioners, either in taking

What is included under the term "costs."

evidence or in local investigations or in investigations into accounts.

**Decrees.**

CLXXXIX. The decree shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the Register of the suit, and shall specify clearly the relief granted or other determination of the suit. It shall also state the amount of costs incurred in the suit, and by what parties and in what proportions they are to be paid, and shall be signed by the Judge and sealed with the seal of the Court.

**Decree for a portion of immoveable property.**

CXC. When the suit is for land or other immoveable property with specified boundaries, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries of the land or property adjudged.

**Decree for moveable property.**

CXCI. When the suit is for moveable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

**Decree for damages for breach of contract.**

CXCII. When the suit is for damages for breach of contract, if it appear that the defendant is able to perform the contract, the Court with the consent of the plaintiff may decree the specific performance of the contract within a time to be fixed by the Court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not performed.

*CXCIII. Repealed by Act XXIII, 1861, Sec. 1.*

**Payment by instalments.**

CXCIV. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments with or without interest.

**If set-off be allowed. Effect of decree.**

CXCV. If the defendant shall have been allowed to set-off any demand against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for

the recovery of any sum which shall appear to be due to either party. The decree of the Court with respect to any sum awarded to the defendant shall have the same effect, and be subject to the same rules, as if such sum had been claimed by the defendant in a separate suit against the plaintiff

CXCVI. When the suit is for land or other property paying rent, the Court may provide in the decree for the payment of mesne profits or rent on such land or other property, from the date of the suit until the date of delivery of possession to the decree-holder, with interest thereupon at such rate as the Court may think proper.

When the suit is for land, the Court may provide for payment of mesne profits with interest.

CXCVII. When the suit is for land and for mesne profits which have accrued thereon during a period prior to the date of suit, and the amount of such profits is disputed, the Court may either determine the amount prior to passing a decree for the land, or may pass a decree for the land and reserve the enquiry into the amount of mesne profits for the execution of the decree, according as may appear most convenient.

Court may determine amount of mesne profits, or may reserve enquiry.

CXCVIII. Certified copies of the decree and judgment shall be furnished to the parties or their pleaders on application to the Court, and on the production of the necessary stamps, where stamps are required by any law for the time being in force. The application may be made either orally or by writing on unstamped paper.

Certified copies of the decree and judgment to be furnished.

#### CHAPTER IV.

##### EXECUTION OF DECREES.

CXCIX. If the decree be for land or other immoveable property, the same shall be delivered over to the party to whom it shall have been adjudged.

Decree for immoveable property.

CC. If the decree be for any specific moveable, or for the specific performance of any contract, or for the performance of any other particular act, it shall be enforced by

Decree for moveable, or for specific performance of contract, or for enforcement of particular act.



the seizure, if practicable, of the specific moveable and the delivery thereof to the party to whom it shall have been adjudged, or by imprisonment of the party against whom the decree is made, or by attaching his property and keeping the same under attachment until further order of the Court, or by both imprisonment and attachment, if necessary ; or if alternative damages be awarded, by levying such damages in the mode hereinafter provided for the execution of a decree for money.

**Decree for money.**

CC'I. If the decree be for money, it shall be enforced by the imprisonment of the party against whom the decree is made, or by the attachment and sale of his property, or by both if necessary, and if such party be other than a defendant, the decree may be enforced against him in the same manner as a decree may be enforced under the provisions of this Chapter against a defendant. When the decree is against Government or against any Officer acting on behalf of Government, if the Officer whose duty it is to satisfy the decree neglect or refuse to satisfy the same, the Court shall report the case through the Sudder Court for the orders of Government, and execution shall not issue on the decree, unless the same shall remain unsatisfied for the space of three months from the date of such report.

**Decrees for execution of conveyance or endorsement of negotiable instruments.**

CC'II If the decree be for the execution of a conveyance or for the endorsement of a negotiable instrument, and the party ordered to execute or endorse such conveyance or negotiable instrument shall neglect or refuse so to do, any party interested in having the same executed or endorsed may prepare a conveyance or endorsement of the instrument in accordance with the terms of the decree, and tender the same to the Court, for execution upon the proper stamp (if any is required by law), and the signature thereof by the Judge shall have the same effect as the execution or endorsement thereof by the party ordered to execute.

**Decree against representatives of deceased persons.**

CC'III. If the decree be against a party as the representative of a deceased person, and such decree be for

money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property, or, if no such property can be found and the defendant fail to satisfy the Court that he has duly applied such property of the deceased as shall be proved to have come into his possession, the decree may be executed against the defendant to the extent of the property not duly applied by him, in the same manner as if the decree had been against the defendant personally.

CCIV. Whenever a person has become liable as security for the performance of a decree or of any part thereof, the decree may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a decree may be enforced against a defendant.

Decree against  
sureties.

CCV. The following property is liable to attachment and sale in execution of a decree, namely, lands, houses, goods, money, bank-notes, cheques, bills of exchange, promissory notes, Government securities, bonds, or other securities for money, debts, shares in the capital or joint-stock of any Railway, Banking, or other Public Company or Corporation, and all other property whatsoever, moveable or immoveable, belonging to the defendant, and whether the same be held in his own name or by another person in trust for him, or on his behalf.

What property  
liable to attach-  
ment and sale in  
execution.

CCVI. All monies payable under a decree shall be paid into the Court whose duty it is to execute the decree, unless such Court or the Court which passed the decree shall otherwise direct. No adjustment of a decree in part or in whole shall be recognized by the Court, unless such adjustment be made through the Court, or be certified to the Court by the person in whose favor the decree has been made or to whom it has been transferred.

Payment of mo-  
nies under decree,  
&c. Adjustment of  
decree to be made  
through the Court.

#### APPLICATION FOR EXECUTION.

CCVII. When any party in whose favor a decree has been made is desirous of enforcing the same, he shall apply

Application for  
execution how to  
be made.

to the Court whose duty it is to execute the decree, either in person or through his pleader in the suit, or some other pleader duly appointed to act for him in that behalf. If there be two or more decree-holders, one or more of them may make the application, if the Court shall see sufficient cause for allowing him or them to make such application; and the Court shall in such case pass such order as it may deem necessary for protecting the interests of the other decree-holders.

Application by whom to be made, if decree be transferred.

CCVIII. If a decree shall be transferred by assignment or by operation of law from the original decree-holder to any other person, application for the execution of the decree may be made by the person to whom it shall have been so transferred or his pleader; and if the Court shall think proper to grant such application, the decree may be executed in the same manner as if the application were made by the original decree-holder.

Cross-decrees.

CCIX. If there be cross-decrees between the same parties for the payment of money, execution shall be taken out by that party only who shall have obtained a decree for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both decrees.

The above rules shall apply to decrees sent to a Court for execution as well as to decrees in the same Court.

Whenever a suit shall be pending in any Court against the holder of a decree of such Court, by the person or persons against whom the decree was passed, the Court may, if it appear just and reasonable to do so, stay execution on the decree, either absolutely or on such terms as it may think just, until a decree shall be passed in the pending suit.

If judgment debtor shall die before execution, application may be made against his legal representative or estate.

CCX. If any person against whom a decree has been made shall die before execution has been fully had thereon,

application for execution thereof may be made against the legal representative or the estate of the person so dying as aforesaid; and if the Court shall think proper to grant such application, the decree may be executed accordingly.

CCXI. If the decree be ordered to be executed against the legal representative, it shall be executed in the manner provided in Section 203 for the execution of a decree for money to be paid out of the property of a deceased person.

Decree how to be executed against legal representative.

CCXII. The application for execution of a decree shall be in writing, and shall contain in a tabular form the following particulars, namely, the number of the suit, the names of the parties, the date of the decree, whether any appeal has been preferred from the decree, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; the amount of the debt or damages due upon it, or other relief granted by the decree; the amount of costs, if any were awarded, the name of the person against whom the enforcement of the decree is sought; and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, the arrest and imprisonment of the person named, or attachment of his property, or otherwise as the case may be.

Form of application for execution of a decree.

CCXIII. When the application is for an attachment of any land or other immoveable property belonging to the defendant, it shall be accompanied with an inventory or list of such property, containing such a description of the property as may be sufficient to identify it, together with a specification of the defendant's share or interest therein, to the best of the applicant's belief and so far as he has been able to ascertain the same. And where the property is an estate paying revenue to Government or any portion of such estate, the application for an attachment shall be accompanied with an authenticated extract from the Register of the Collector's Office, specifying the Revenue of such estate,

Further particulars, when the application is for an attachment of immoveable property.

and the names and (where registered) the shares of the registered proprietors. •

The application for an attachment of moveable property may be general or accompanied with an inventory.

CCXIV. Where the application is for an attachment of the defendant's moveable property or any part thereof, it may be accompanied with an inventory or list of the property to be attached, containing a reasonably accurate description thereof; or the applicant may apply for a general attachment of the defendant's moveable property wheresoever the same can be found, to the amount of the judgment and costs.

CCXV. *Repealed first by Act IV, 1860, Section 2, which substituted another Section for it, and subsequently by Act XXIII, 1861, Section 1, which repeals Act IV, 1860, together with this Section.*

#### MEASURES REQUIRED IN CERTAIN CASES PRELIMINARY TO THE ISSUE OF THE WARRANT.

In special cases, notice to show cause why the decree should not be executed shall be issued. Proviso

CCXVI. If an interval of more than one year shall have elapsed between the date of the decree and the application for its execution, or if the enforcement of the decree be applied for against the heir or representative of an original party to the suit, the Court shall issue a notice to the party against whom execution may be applied for, requiring him to show cause, within a limited period to be fixed by the Court, why the decree should not be executed against him. Provided, that no such notice shall be necessary in consequence of an interval of more than one year having elapsed between the date of the decree and the application for execution, if the application be made within one year from the date of the last order passed on any previous application for execution; and provided further, that no such notice shall be necessary in consequence of the application being against an heir or representative, if upon a previous application for execution against the same person, the Court shall have ordered execution to issue against him.

Procedure after issue of notice.

CCXVII. When such notice is issued, if the party shall not attend in person or by a pleader, or shall not show

sufficient cause to the satisfaction of the Court why the decree should not be forthwith executed, the Court shall order it to be executed accordingly. If the party shall attend in person or by a pleader, and shall offer any objection to the enforcement of the decree, the Court shall pass such order as in the circumstances of the case may appear to be just and proper.

CCXVIII. Where the application is for a general attachment of the moveable property of the defendant, it shall be competent to the Court, if it shall think proper, before issuing an order for such attachment, to require the applicant to give security to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any other person than the defendant.

Application for  
a general attach-  
ment of moveable  
property.

CCXIX. Before granting the order for a general attachment, or, at the instance of the plaintiff, at any time after judgment and before complete execution of the decree, the Court may summon the person against whom the application is made and examine him as to the property liable to be seized in satisfaction of the judgment. The Court may also, of its own motion or at the instance of any person interested in the enquiry, summon any other person whom it may think necessary and examine him in respect to such property, and may require the person summoned to produce all deeds and documents in his possession or power relating to such property.

Before granting  
order, Court may  
make certain en-  
quiries

CCXX. In all cases in which a summons may be issued for the attendance of a party to a suit or any other person at any time after judgment, the rules applicable to the summoning and examination of parties and witnesses after issues recorded shall apply to the party or witnesses so summoned.

Rules as to the  
summoning and  
examination of  
parties and wit-  
nesses after judg-  
ment

#### ISSUE OF THE WARRANT.

CCXXI. When all necessary preliminary measures have been taken, where any such are required, the Court,

Warrant when to  
issue

unless it see cause to the contrary, shall issue the proper warrants for the execution of the decree.

Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.

CCXXII. Every warrant for the execution of a decree shall bear the date of the day on which it is issued, and shall be signed by the Judge and sealed with the seal of the Court, and delivered to the Nazir or other proper officer of the Court. A day shall be specified in the warrant on or before which it must be executed, and the Nazir or other proper officer shall endorse upon the warrant the day and the manner in which it was executed, or, if it was not executed, the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

#### OF THE EXECUTION OF DECREES FOR IMMOVEABLE PROPERTY.

How immoveable property is to be delivered, when in the occupancy of a defendant or of some person under

CCXXIII. If the decree be for a house, land, or other immoveable property in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the institution of the suit, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been adjudged, or any person whom he may appoint to receive delivery on his behalf in possession thereof, and it need be, by removing any person who may refuse to vacate the same.

How it is to be delivered, when in the occupancy of ryots.

CCXXIV. If the decree be for land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the warrant in some conspicuous place on the land or other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, the substance of the decree in regard to the property.

Division of estate or separation of shares, how to be made.

CCXXV. If the decree be for the division of an estate, or for the separate possession of a share of an undivided estate paying revenue to Government, the division of the

estate or the separation of the share shall be made by the Collector under the orders of the Court, according to the rules in force for the partition of an estate paying revenue to Government.

CCXXVI. If in the execution of a decree for land or other immoveable property, the Officer executing the same shall be resisted or obstructed by any person, the person in whose favor such decree was made may apply to the Court at any time within one month from the time of such resistance or obstruction. The Court shall fix a day for investigating the complaint, and shall summon the party against whom the complaint is made to answer the same.

to

property.

CCXXVII. If it shall appear to the satisfaction of the Court that the obstruction or resistance was occasioned by the defendant, or by some person at his instigation, on the ground that the land or other immoveable property is not included in the decree, or on any other ground, the Court shall enquire into the matter of the complaint and pass such order as may be proper under the circumstances of the case.

Obstruction by defendant.

CCXXVIII. If the Court shall be satisfied, after such investigation of the facts of the case as it may deem proper, that the resistance or obstruction complained of was without any just cause, and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or some person at his instigation, the Court may, at the instance of the plaintiff, and without prejudice to any proceedings to which such defendant or other person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, commit the defendant or such other person to close custody for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

How defendant be dealt with persists.

CCXXIX. If it shall appear to the satisfaction of the Court that the resistance or obstruction to the execution of

Obstruction by a bona fide claimant, not defendant.



the decree has been occasioned by any person, other than the defendant, claiming *bond fide* to be in possession of the property on his own account or on account of some other person than the defendant, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant, and the Court shall, without prejudice to any proceedings to which the claimant may be liable under any law for the time being in force for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of this Act, and shall pass such order for staying execution of the decree, or executing the same, as it may deem proper in the circumstances of the case.

Procedure in certain cases, if person dispossessed dispute the right of decree-holder to be put into possession.

CCXXX. If any person other than the defendant shall be dispossessed of any land or other immoveable property in execution of a decree, and such person shall dispute the right of the decree-holder to dispossess him of such property under the decree on the ground that the property was *bond fide* in his possession, on his own account or on account of some other person than the defendant, and that it was not included in the decree, or, if included in the decree, that he was not a party to the suit in which the decree was passed, he may apply to the Court within one month from the date of such dispossession; and if, after examining the applicant, it shall appear to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff, and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like powers as if a suit for the property had been instituted by the applicant against the decree-holder.

de-  
the  
is.

CCXXXI. The decision passed by the Court under either of the last two Sections shall be of the same force

as a decree in an ordinary suit, and shall be subject to appeal under the rules applicable to appeals from decrees; and no fresh suit shall be entertained in any Court between the same party or parties claiming under them in respect of the same cause of action.

OF THE EXECUTION OF DECREES FOR MONEY BY  
ATTACHMENT OF PROPERTY.

CCXXXII. If the decree be for money, and the amount thereof is to be levied from the property of the person against whom the same may have been pronounced, the Court shall cause the property to be attached in the manner following.

Attachment of

CCXXXIII. Where the property shall consist of goods, chattels, or other moveable property in the possession of the defendant, the attachment shall be made by actual seizure, and the Nazir or other officer shall keep the same in his own custody, or in the custody of his subordinates, and shall be responsible for the due custody thereof.

Attachment by seizure of moveable property in possession of defendant

CCXXXIV. Where the property shall consist of goods, chattels, or other moveable property to which the defendant is entitled, subject to a lien or right of some other person to the immediate possession thereof, the attachment shall be made by a written order prohibiting the person in possession from giving over the property to the defendant.

Attachment, by prohibitory order, of moveable property to which defendant is entitled subject to a lien.

CCXXXV. Where the property shall consist of lands, houses, or other immoveable property, the attachment shall be made by a written order prohibiting the defendant from alienating the property by sale, gift, or in any other way, and all persons from receiving the same by purchase, gift, or otherwise.

Attachment by prohibitory order of immoveable property.

CCXXXVI. Where the property shall consist of debts not being negotiable instruments, or of shares in any Railway, Banking, or other public Company or Corporation, the attachment shall be made by a written order prohibiting the creditor from receiving the debts, and the debtor from mak-

Attachment, by prohibitory order, of debts not being negotiable instruments, and of shares in public Companies, &c.

ing payment thereof to any person whomsoever, until the further order of the Court, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares or receiving payment of any dividends thereof, and the Manager, Secretary, or other proper officer of the Company or Corporation from permitting any such transfer or making any such payment, until such further order. .

Attachment, by notice, of money or Securities in deposit in a Court of Justice or with a Government Officer

CCXXXVII. Where the property shall consist of money or of any security, in deposit in any Court of Justice or in the hands of any officer of Government, which is or may become payable to the defendant or on his behalf, the attachment shall be made by a notice to such Court or officer, requesting that the money or security may be held subject to the further order of the Court by which the notice may be issued. Provided that, if such money or security is in deposit in any Court of Justice, any question of title or priority which may arise between the decree-holder and any other person, not being the defendant, claiming to be interested in such money or security by virtue of any assignment, attachment, or otherwise, shall be determined by the Court in which such money or security is in deposit.

Proviso.

Attachment of negotiable instruments by seizure.

CCXXXVIII. Where the property shall consist of a negotiable instrument, the attachment shall be made by actual seizure, and the Nazir or other officer shall bring the same into Court, and such instrument shall be held subject to the further orders of the Court.

Prohibitory order, how to be made when.

CCXXXIX. In the case of goods, chattels, or other moveable property not in the possession of the defendant, the written order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the person in possession of the property. In the case of lands, houses, or other immoveable property, the written order shall be read aloud at some place on or adjacent to such lands, houses, or other property, and shall be fixed up in some conspicuous part of the Court-

house ; and when the property is land or any interest in land, the written order shall also be fixed up in the office of the Collector of the Zillah in which the land may be situated. In the case of debts, the written order shall be fixed up in some conspicuous part of the Court-house, and copies of the written order shall be delivered or sent registered by post to each individual debtor. And in the case of shares in the capital or joint-stock of any Railway, Banking, or other public Company or Corporation, the written order shall in like manner be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the Manager, Secretary, or other proper officer of the Company or Corporation.

CCXL. After any attachment shall have been made by actual seizure, or by written order as aforesaid, and in the case of an attachment by written order after it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, or otherwise, and any payment of the debt or debts or dividends or shares to the defendant, during the continuance of the attachment, shall be null and void.

Any private alienation after attachment to be void.

CCXLI. In every case in which a debtor shall be prohibited from making payment of his debt to the creditor, he may pay the amount into Court, and such payment shall have the same effect as payment to the party entitled to receive the debt.

Payment into Court by : prohibited from making payment to his creditor.

CCXLII. In all cases of attachment under the preceding Sections, it shall be competent to the Court, at any time during the attachment, to direct that any part of the property so attached as shall consist of money or bank-notes, or a sufficient part thereof, shall be paid over to the party applying for execution of the decree ; or that any part of the property so attached as may not consist of money or bank-notes, so far as may be necessary for the satisfaction of the decree, shall be sold, and that the money which may be rea-

The Court may direct money or bank notes to be paid to the plaintiff ; or other attached property to be sold, and proceeds to be paid to him.

lized by such sale, or a sufficient part thereof, shall be paid to such party.

Where the property attached consists of debts or immoveable property, a Manager may be appointed. Court may postpone sale of land, if satisfied that amount of judgment may be raised by mortgage, &c.

CCXLIII. When the property attached shall consist of debts due to the party who may be answerable for the amount of the decree, or of any lands, houses, or other immoveable property, it shall be competent to the Court to appoint a Manager of the said property, with power to sue for the debts, and to collect the rents or other receipts and profits of the land or other immoveable property, and to execute such deeds or instruments in writing as may be necessary for the purpose, and to pay and apply such rents, profits, or receipts towards the payment of the amount of the decree and costs; or when the property attached shall consist of land, if the judgment debtor can satisfy the Court that there is reasonable ground to believe that the amount of the judgment may be raised by the mortgage of the land, or by letting it on lease, or by disposing by private sale of a portion of the land or of any other property belonging to the judgment debtor, it shall be competent to the Court, on the application of the judgment debtor, to postpone the sale for such period as it may think proper, to enable the judgment debtor to raise the amount. In any case in which a Manager shall be appointed under this Section, such Manager shall be bound to render due and proper accounts of his receipts and disbursements from time to time as the Court may direct.

When Court may authorize Collectors to stay public sale of land.

CCXLIV. When in any District, where land paying revenue to Government is ordinarily sold by the Collector, as provided in Section 248, the property attached shall consist of any such land, or of a share in any such land, if the Collector shall represent to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector, on security for the amount of the decree or for the value of such land or share being given, to make provision for such satisfaction in the manner

recommended by the Collector, instead of proceeding to a public sale of the land or share.

CCXLV. If the amount decreed, with costs and all charges and expenses which may be incurred by the attachment, be paid into Court, or if satisfaction of the decree be otherwise made, an order shall be issued for the withdrawal of the attachment; and if the defendant shall desire it and shall deposit in Court a sum sufficient to cover the expense, the order shall be proclaimed or intimated in the same manner as hereinbefore prescribed for the proclamation or intimation of the attachment; and such steps shall be taken as may be necessary for staying further proceedings in execution of the decree.

Order for withdrawal of attachment after satisfaction of decree.

#### OF CLAIMS TO ATTACHED PROPERTY.

CCXLVI. In the event of any claim being preferred to, or objection offered against, the sale of lands or any other immoveable or moveable property, which may have been attached in execution of a decree or under any order for attachment, passed before judgment, as not liable to be sold in execution of a decree against the defendant, the Court shall, subject to the proviso contained in the next succeeding Section, proceed to investigate the same with the like powers as if the claimant had been originally made a defendant to the suit, and also with such powers as regards the summoning of the original defendant as are contained in Section 220. And if it shall appear to the satisfaction of the Court, that the land or other immoveable or moveable property was not in the possession of the party against whom execution is sought, or of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, or that, being in the possession of the party himself at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person, the Court shall pass an order for releasing the said property from attachment. But if it

How claims and objections to sale of attached property are to be investigated.

shall appear to the satisfaction of the Court, that the land or other immoveable or moveable property was in possession of the party against whom execution is sought, as his own property, and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him, at the time when the property was attached, the Court shall disallow the claim. The order which may be passed by the Court under this Section shall not be subject to appeal, but the party against whom the order may be given shall be at liberty to bring a suit to establish his right, at any time within one year from the date of the order.

Claims and objections to be preferred at the earliest opportunity.

CCXLVII. The claim or objection shall be made at the earliest opportunity to the Court which shall have ordered the attachment; and if the property to which the claim or objection applies shall have been advertized for sale, the sale may (if it appears necessary) be postponed for the purpose of making the investigation mentioned in the last preceding Section. Provided, that no such investigation shall be made, if it appear that the making of the claim or objection was designedly and unnecessarily delayed, with a view to obstruct the ends of justice. The order disallowing the investigation shall not be subject to appeal, and the claimant shall be left to prosecute his claim by a regular suit.

#### OF SALES IN EXECUTION OF DECREES.

Sales to be by public auction Except as to negotiable securities and shares in public Companies Sale by Collector of lands paying revenue to Government.

CCXLVIII. Sales in execution of decrees shall be conducted by an officer of the Court or by any other person whom the Court may appoint, and shall in all cases be made by public auction in manner hereinafter mentioned. Provided that, if the property to be sold shall consist of negotiable securities or of shares in any Railway, Banking, or other public Company or Corporation, it shall be competent to the Court, instead of directing the sale to be made by public auction, to authorize the sale of such securities or shares

through a broker at the market-rate of the day. If the property to be sold shall be land paying revenue to Government and the Government shall so direct, the sale shall be conducted by the Collector on the requisition of the Court.

CCXLIX. In all cases of intended sale by public auction, whether of moveable or immoveable property, in execution of a decree, a proclamation of the intended sale specifying the time and place of sale, the property to be sold, the revenue assessed upon the estate when the property to be sold is an estate or a part of an estate paying revenue to Government, and the amount for the recovery of which the sale is ordered, together with any other particulars that the Court may think necessary, shall be made in the current language of the District. The proclamation shall also declare that the sale extends only to the right, title, and interest of the defendant in the property specified therein. Such proclamation shall be made on the spot where the property is attached by beat of drum, or in such other mode as may be customary, and a written notification to the same effect shall be affixed in the Court-house of the Judge who shall have ordered the sale, and in some conspicuous spot in the town or village in which the attachment may have taken place. When the property ordered to be sold may consist of land or of any right or interest in land, the written notification shall also be affixed in the office of the Collector of the District in which such land is situate, and in the Court-house of the principal Civil Court of the District where the Court which ordered the sale is subordinate to such Court. The sale shall not take place until after the expiration of at least thirty days in the case of immoveable property, and of at least fifteen days in the case of moveable property, calculated from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale.

CCL. The usual process for attachment and sale, when the property to be attached consists of goods, chattels, or other personal estate other than debts, may be issued either

Notification of  
sales by public  
auction Time  
of sale.

The process  
for attachment  
and sale may in  
certain cases be  
issued simulta-  
neously.



successively or simultaneously, as the Court directing the sale may in each instance think proper.

Mode of payment on sale of moveable property.

CCLI. In all cases of sale of moveable property, the price of every lot shall be paid for at the time of sale or as soon after as the Officer holding the sale shall direct, and in default of such payment the property shall forthwith be again put up and sold. On payment of the purchase money, the Officer holding the sale shall grant a receipt for the same, and the sale shall become absolute. •

Irregularity not to vitiate sale of moveable property.

CCLII. No irregularity in the sale of moveable property under an execution shall vitiate the sale; but any person who may sustain any injury by reason of such irregularity may recover damages by a suit in Court.

Deposit by purchaser in case of sale of immoveable property.

CCLIII. In all cases of sale of immoveable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

At what time full amount of purchase money to be made good. Defaulting purchaser answerable for loss by re-sale.

CCLIV. The full amount of purchase money shall be made good by the purchaser before sunset of the fifteenth day from that on which the sale of the property took place, or if the fifteenth day be a Sunday or other close holiday, then on the first office day after the fifteenth day; and in default of payment within such period, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be resold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the sale which is eventually consummated be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules for enforcing the payment of money in satisfaction of a decree of Court.

Notification on re-sale of immoveable property.

CCLV. Every re-sale of immoveable property in default of payment of the purchase money shall be made after

the issue of a fresh notification in the manner and for the period prescribed for original sales.

CCLVI. No sale of immoveable property shall become absolute until the sale has been confirmed by the Court. At any time within thirty days from the date of the sale, application may be made to the Court to set aside the sale on the ground of any material irregularity in publishing or conducting the sale, but no sale shall be set aside on the ground of such irregularity, unless the applicant shall prove to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

**Confirmation  
of sale.**

CCLVII. If no such application as is mentioned in the last preceding Section be made, or if such application be made and the objection be disallowed, the Court shall pass an order confirming the sale; and in like manner if such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale for irregularity. If the objection be allowed, the order made to set aside the sale shall be final; if the objection be disallowed, the order confirming the sale shall be open to appeal, and such order, unless appealed from, and if appealed from, then the order passed on the appeal, shall be final; and the party against whom the same has been given shall be precluded from bringing a suit for establishing his claim.

**The sale, if not  
objected to for  
irregularity or if  
the objection is  
disallowed, shall  
become absolute.**

CCLVIII. Whenever a sale of immoveable property is set aside, the purchaser shall be entitled to receive back his purchase money with or without interest, in such manner as it may appear proper to the Court to direct in each instance.

CCLIX. After a sale of immoveable property shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who may have been declared the purchaser at such sale to the effect that he has purchased the right, title, and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title, and interest,

**Certificates to  
be granted to the  
purchaser of  
land.**

Certificate of state the name of actual purchaser.

CCLX. The certificate shall state the name of the person who at the time of sale is declared to be the actual purchaser, and any suit brought against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Delivery of moveable property in possession of defendant.

CCLXI. Where the property sold shall consist of goods, chattels, or other moveable property in the possession of the defendant, or to the immediate possession of which the defendant is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of moveable property to which defendant is entitled subject to lien

CCLXII. Where the property sold shall consist of goods, chattels, or other moveable property to which the defendant is entitled subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall as far as practicable be made by giving notice to the person in possession, prohibiting him from delivering possession of the property to any person except the purchaser thereof.

Delivery of immoveable property in the occupancy of defendants, &c.

CCLXIII. If the property sold shall consist of a house, land, or other immoveable property, in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the attachment of such property, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immoveable property may have been sold, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be, by removing any person who may refuse to vacate the same.

Delivery of immoveable property in the occupancy of ryots, &c.

CCLXIV. If the property sold shall consist of land or other immoveable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the land or

other immoveable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, that the right, title and interest of the defendant has been transferred to the purchaser.

CCLXV. Where the property sold shall consist of debts not being negotiable instruments, or of shares in any Railway, Banking or other public Company or Corporation, the delivery thereof shall be by a written order of the Court prohibiting the creditor from receiving the debts and the debtor from making payment thereof to any person or persons except the purchaser, or prohibiting the person in whose name the shares may be standing, from making any transfer of the shares to any person except the purchaser, or receiving payment of any dividends thereon, and the Manager, Secretary, or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment to any person except the purchaser.

Delivery of debts not being negotiable instruments, and of shares in public Companies.

CCLXVI. Where the property sold shall consist of negotiable securities of which actual seizure has been made, the same shall be delivered to the purchaser thereof.

Delivery of negotiable securities actually seized.

CCLXVII. If the endorsement or conveyance of the party, in whose name any negotiable security or any share in a public Company or Corporation is standing, shall be required to transfer the same, the Judge may endorse the security or the certificate of the share, or may execute such other document as may be necessary for transferring the same. The endorsement or execution shall be in the following form or to the like effect—"A. B. by C D. Judge of the Court of (or as the case may be); in a suit by E. F. *versus* A. B." Until the transfer of such security or share, the Judge may, by order, appoint some person to receive any interest or dividend due thereon, and to sign receipts for the same; and any endorsement made, or document executed or receipts signed as aforesaid, shall be as valid and effectual for all purposes, as if the same had been made or executed or signed by the party himself.

Transfer of securities and shares.

Resisting or obstructing purchasers in obtaining possession.

CCLXVIII. If the purchaser of any immoveable property sold in execution of a decree shall be resisted or obstructed in obtaining possession of the property, the provisions contained in Sections 226, 227, and 228, relating to resistance or obstruction to a party in whose favor a suit has been decreed in obtaining possession of the property adjudged to him, shall be applicable in the case of such resistance or obstruction.

Obstruction by claimants other than defendants.

CCLIX. If it shall appear that the resistance or obstruction to the delivery of possession was occasioned by any person, other than the defendant, claiming a right to the possession of the property sold as proprietor, mortgagee, lessee, or under any other title, or if in the delivery of possession to the purchaser any such person claiming as aforesaid shall be dispossessed, the Court, on the complaint of the purchaser, or of such person claiming as aforesaid, if made within one month from the date of such resistance or obstruction or of such dispossession as the case may be, shall enquire into the matter of the complaint and pass such order as may be proper in the circumstances of the case. The order shall not be subject to appeal, but the party against whom it is given shall be at liberty to bring a suit to establish his right at any time within one year from the date thereof.

Attaching creditor to be first paid out of proceeds of sale.

CCLXX. Whenever property is sold in execution of a decree, the person on whose application such property was attached shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same property by another party in execution of a prior decree.

Surplus to be rateably distributed among decree-holders who have taken out execution prior to the order for distribution.

CCLXXI. If, after the claim of the person on whose application the property was attached has been satisfied in full from the proceeds of the sale, any surplus remain, such surplus shall be distributed rateably amongst any other persons, who, prior to the order for such distribution, may have taken out execution of decrees against the same defendant and not obtained satisfaction thereof. Provided that, when

any property is sold subject to a mortgage, the mortgagee shall not be entitled to share in any surplus arising from such sale.

CCLXXII. If it shall appear to the Court, upon the application of a decree-holder, that any other decree under which property has been attached was obtained by fraud or other improper means, the Court may order that the applicant shall be satisfied out of the proceeds of the property attached so far as the same may suffice for the purpose, if such other decree be a decree of that Court; or, if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain a similar order from the Court by which the decree was made.

Another decree-holder to be satisfied out of proceeds of property attached under a decree obtained fraudulently.

#### OF ARREST IN EXECUTION OF DECREES FOR MONEY.

CCLXXIII. Any person arrested under a warrant in execution of a decree for money may, on being brought before the Court, apply for his discharge on the ground that he has no present means of paying the debt, either wholly or in part, or, if possessed of any property, that he is willing to place whatever property he possesses at the disposal of the Court. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and the necessary implements of his trade) and of the places respectively where such property is to be found, or shall state that, with the exceptions above-mentioned, the applicant is not possessed of any property, and the application shall be subscribed and verified by the applicant in the manner hereinbefore prescribed for subscribing and verifying complaints.

On what grounds, application for discharge may be made. Form of application. Verification.

CCLXXIV. *Repealed by Act XXIII, 1861, Section 1.*

CCLXXV. The discharge of the defendant under the last preceding Section shall not protect him from being arrested again and imprisoned, if it should be shown that,

Defendant liable to be again arrested, if proved guilty of fraudulent concealment of property, &c.

in the application made by him, he had been guilty of any concealment or of wilfully making any false statement respecting the property belonging to him, whether in possession or in expectancy or held for him in trust, or had fraudulently concealed, transferred, or removed any property, or had committed any other act of bad faith; nor shall such discharge exempt from attachment and sale any property then in the possession of the defendant, or of which he may afterwards become possessed.

#### OF THE EXECUTION OF DECREES BY IMPRISONMENT.

Subsistence-money of a defendant in gaol, how fixed and furnished.

CCLXXVI. When a defendant is committed to prison in execution of a decree, the Court shall fix whatever monthly allowance it shall think sufficient for his subsistence, not exceeding four annas per day, which shall be supplied by the party at whose instance the decree may have been executed, to the proper Officer of the Court or of the gaol where the defendant may be in custody, by monthly payments in advance, before the first day of each month; the first payment to be made for such portion of the current month as may remain unexpired before the defendant is committed to prison.

Court may vary the allowance in case of illness, or for other special cause.

CCLXXVII. The Court may, in case of illness or for other special cause, fix the monthly allowance at such sum not exceeding six annas per day as shall appear necessary. The order fixing such allowance may from time to time be revised and altered on due cause being shown.

Release of defendant imprisoned not to be longer than 2 years. Six months, if decree for money not exceeding Rs. 500. Three months, if not exceeding Rs. 50.

CCLXXVIII. A defendant shall be released at any time on the decree being fully satisfied, or at the request of the person at whose instance he may have been imprisoned, or on such person omitting to pay the allowance as above directed. No person shall be imprisoned on account of a decree for a longer period than two years, or for a longer period than six months if the decree be for the payment of money not exceeding five hundred Rupees, or for a longer period than three months if the decree be for the payment of money not exceeding fifty Rupees.

**CCLXXIX.** Sums disbursed by a plaintiff for the subsistence of a defendant in gaol shall be added to the costs of the decree, and shall be recoverable by the attachment and sale of the property of the defendant under the foregoing rules; but the defendant shall not be detained in custody or arrested on account of any sums so disbursed.

Subsistence-money to be added to amount of decree.

**CCLXXX.** Any person in confinement under a decree may apply to the Court for his discharge. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him, (except the necessary wearing apparel of himself and his family and the necessary implements of his trade,) and of the places respectively where such property is to be found, and such application shall be subscribed and verified by the applicant in the manner hereinbefore provided for subscribing and verifying plaints.

Application by prisoner for discharge on surrender of all property Verification.

**CCLXXXI.** On such application being made, the Court shall cause the plaintiff to be furnished with a copy of the account of the defendant's property, and shall fix a reasonable period within which the plaintiff may cause the whole or any part of such property to be attached and sold or may make proof that the defendant, for the purpose of procuring his discharge without satisfying the decree, has wilfully concealed property or his right or interest therein, or fraudulently transferred or removed property, or committed any other act of bad faith. If within such period the plaintiff shall fail to make such proof, the Court shall cause the defendant to be set at liberty. If the plaintiff shall, within the time specified or at any subsequent period, prove to the satisfaction of the Court that the defendant has been guilty of any of the acts above-mentioned, the Court shall, at the instance of the plaintiff, either retain the defendant in confinement, or commit him to prison, as the case may be, unless he shall have already been in confinement two years on account of the decree; and may also, if it shall think proper, send the

Procedure on such application Defendant to be discharged on plaintiff failing to prove fraud or concealment. Otherwise debtor's imprisonment may be extended to two years; and he may be further dealt with criminally.



defendant to the Magistrate to be dealt with according to law.

Defendant's property to continue liable even after his discharge. When Court may declare a defendant absolved from further liability.

CCLXXXII. A defendant once discharged shall not again be imprisoned on account of the same decree, except under the operation of the last preceding Section, but his property shall continue liable, under the ordinary rules, to attachment and sale until the decree shall be fully satisfied, unless the decree shall be for a sum less than one hundred Rupees and on account of a transaction bearing date subsequently to the passing of this Act. When the decree shall be for a sum less than one hundred Rupees and on account of a transaction bearing date as above, the Court may declare a defendant who shall be discharged as aforesaid absolved from further liability under that decree.

CCLXXXIII. *Repealed by Act XXIII, 1861, Sec. 1.*

OF EXECUTION OF A DECREE OUT OF THE JURISDICTION OF THE COURT BY WHICH IT WAS PASSED.

How a decree of one Court may be executed within the jurisdiction of another.

CCLXXXIV. A decree of any Civil Court within any part of the British territories in India, or established by the authority of the Governor General of India in Council in the territories of any Foreign Prince or State, which cannot be executed within the jurisdiction of the Court whose duty it is to execute the same, may be executed within the jurisdiction of any other such Court in the manner following.

Application for such execution.

CCLXXXV. The plaintiff in such case may apply to the Court whose duty it is to execute the decree, to transmit a copy thereof, together with a certificate that satisfaction of such decree has not been obtained by execution within the jurisdiction of the said Court, and a copy of any order for execution of such decree that may have been passed to the Court by which the applicant may wish the decree to be executed.

Copy of decree order for execution to be made.

CCLXXXVI. The Court, unless there be any sufficient reason to the contrary, shall cause such copies and certificate to be prepared: and the same, after being signed by

the Judge and sealed with the seal of the Court, shall be transmitted to the Court indicated by the applicant, if that Court be within the same District, otherwise, to the principal Civil Court of original jurisdiction in the District in which the applicant may wish the decree to be executed; and the Court to which such copies and certificates are transmitted shall cause the same to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the seal or jurisdiction of any Court, or of the signature of any Judge, unless it shall, under any peculiar circumstances to be specified in an order, require such proof.

CCLXXXVII. The copy of any decree, or of any order for execution, when filed in the Court to which it shall have been transmitted for the purpose of being executed as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may, if the Court be the principal Civil Court of original jurisdiction in the District, be executed by such Court, or any Court subordinate thereto, to which it may entrust the execution of the same.

Decree or order transmitted, to be executed as that of the Court.

CCLXXXVIII. When application shall be made to any Court to execute the decree of any other Court as aforesaid, the Court to which the application shall be made or referred shall proceed to execute the same according to its own rules in the like cases; Provided, that such Court shall have no power to inquire into the validity of the decree, unless it appear upon the face of the decree that the Court by which it was made had no jurisdiction to make the same.

Execution how to be enforced by Court applied to.

CCLXXXIX. The Court, to which such application is made or referred for execution as aforesaid, shall take cognizance of and punish all wrongful acts or irregularities done or committed in executing such decree; and all persons disobeying or obstructing the execution of such decree shall be punishable by such Court in the same manner as if the decree had been made by such Court.

Irregularities in executing decree to be punished by Court applied to.

**Court applied to may in certain cases stay execution, &c.**

CCXC. The Court to which such application is made may, upon good and sufficient cause being shown, stay the execution of the decree for a reasonable time, to enable the defendant to apply to the Court by which the decree was passed or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree, or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by such Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the defendant shall have been seized under an execution, the Court which issued the execution may order the restitution of the property or the discharge of the person of the defendant pending the result of such application.

**Before staying execution, Court may require security or impose conditions.**

CCXCI. Before making an order to stay execution or for the restitution of property or the discharge of the defendant under the last preceding Section, the Court may require such security from, or impose such conditions upon, the defendant, as it may deem reasonable.

**Order of Court passing decree or of Appellate Court, to be binding upon Court applied to.**

CCXCII. Any order of the Court in which the decree was passed, or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last mentioned Court.

**Liability of defendant discharged, to be retaken.**

CCXCIII. No discharge of a defendant under the provisions of Section 290 shall prevent him from being retaken in execution of the decree.

**Appeals from orders for execution.**

CCXCIV. All orders of a Court for executing the decree of another Court shall be subject to the same rules, in respect to appeal, as if the decree had been originally passed by the Court making such order.

**Warrant of arrest or other process in execution of decrees, how to be enforced in Military Cantons, &c.**

CCXCV. If, in execution of a decree, a warrant of arrest or other process is to be enforced within the limits of

a Garrison, Cantonment, Military Station, or Military Bazar, the Officer entrusted with the execution of such warrant or other process shall carry the same to the Commanding Officer, or in his absence to the Senior Officer actually present in the Garrison, Cantonment, Station, or Military Bazar; and the Commanding Officer or such Senior Officer, upon such warrant or other process being produced to him, shall back the same with his signature, and, in the case of a warrant of arrest, shall cause the person named in the warrant to be arrested, if within the limits of his command, and delivered according to the exigency of the warrant to the Civil Officer charged with the execution thereof.

CCXCVI. The rules contained in this Chapter shall be applicable to the execution of any judicial process for the sale of property or for the payment of money, which may be ordered by a Civil Court in any Civil proceeding.

These Rules to be applicable to all Civil process for sale of property, &c.

## CHAPTER V.

### OF PAUPER SUITS.

CCXCVII. A suit may be brought *in forma pauperis* in the Court having jurisdiction over the claim, subject to the following rules.

Suits may be brought in forma pauperis.

CCXCVIII. No pauper suit shall be brought for the recovery of any sum of money on account of damages for loss of caste, slander, abusive language, or assault.

What suits excepted.

CCXCIX. The application to the Court for permission to sue *in forma pauperis* shall be by petition, which shall be written on a stamp paper of the value of eight annas.

Application to be by petition on stamp paper.

CCC. The petition shall contain the particulars required by Section 26 of this Act in regard to complaints, and shall have annexed to it a Schedule of any moveable or immoveable property belonging to the petitioner, with the estimated value thereof, and shall be subscribed and verified in the

Petition what to contain.

manner hereinbefore prescribed for the subscription and verification of plaints.

How to be presented. Examination of petitioner, if a female, how to be taken.

CCCL. The petition shall be presented to the Court by the petitioner in person; but if the petitioner satisfy the Court that he is prevented by sickness from attending the Court in person, or if the petitioner be a female, who, according to the custom and manners of the country, ought not to be compelled to appear in public, the petition may be presented by a duly authorized agent who may be able to answer all material questions relating to the application, and who shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Petition to be rejected, if not in form.

CCCII. If the petition be not framed or presented in the manner laid down in the last two preceding Sections, the Court shall reject the petition.

If in form, Court how to proceed. If presented by an agent Court may order petitioner to be examined as an absent witness.

CCCIII. If the petition be in form and duly presented, the Court shall proceed to examine the petitioner, or the agent of the petitioner as the case may be, regarding the merits of the claim and the property of the petitioner. When the petition is presented by an agent, the Court may also, if it think proper, order that the petitioner be examined in the manner hereinbefore prescribed for the examination of absent witnesses.

Court may reject the application.

CCCIV. If it appear to the Court upon such examination, that the defendant, or the matter of the suit, is not within the jurisdiction of the Court, or that the claim is barred by the Statute of Limitations, or that the allegations of the petitioner do not constitute a reasonable ground of action, or (if none of the objections above stated exist) that the petitioner has failed to show that he is not possessed of sufficient means to enable him to pay for the stamps required for the institution and prosecution of the suit, or that the petitioner has recently disposed of any property fraudulently or with a view to obtain the benefit of this Chapter, the Court shall refuse to allow the petitioner to sue as a pauper.

CCCV. If upon such examination the Court shall see no reason to refuse the application on any of the grounds stated in the last preceding Section, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party) for receiving such evidence as the petitioner may adduce in proof of his pauperism, and for hearing any evidence which the opposite party may bring forward in disproof of the pauperism of the petitioner.

Notice to opposite party.

CCCVI. On the day appointed for the hearing, or as soon after as the business of the Court will permit, the Court shall consider any objections made by the opposite party, and shall examine any witnesses produced by either party and make a memorandum of the substance of their evidence, and shall either allow or refuse to allow the petitioner to sue as a pauper.

After a summary inquiry, the Court to pass a final order.

CCCVII. Previously to passing a final order in the case, the Court may, if it deem fit, institute a local enquiry, in the manner laid down in Section 180 of this Act, regarding the property of the petitioner or regarding the amount or value of any property claimed.

Court may direct a local enquiry.

CCCVIII. If the application of the petitioner be granted, it shall be numbered and registered and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as an ordinary suit, except that the plaintiff shall not be liable to any further stamp duty in respect of any petition, appointment of a pleader, or other proceeding connected with the suit or with the execution of any decree passed in it.

Course of proceeding, if application be admitted.

CCCXIX. On the decision of the suit, the Court shall calculate the amount of stamps which would have been paid by the plaintiff if he had not been permitted to sue as a pauper, and such amount shall be recoverable by Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable.

On the decision of the suit, costs how to be calculated.

CCCX. The refusal to allow the petitioner to sue as a pauper shall be a bar to any subsequent application of

Refusal to allow to sue as a pauper, to bar any subsequent application of the like nature.

the like nature in respect of the same cause of action; but the plaintiff shall be at liberty to institute a suit in the usual manner in respect of such cause of action, unless precluded by the rules for the limitation of suits.

No appeal from orders under this Chapter.

CCCXI. The orders passed by the Court under the provisions of this Chapter shall not be subject to appeal.

## CHAPTER VI.

### REFERENCE TO ARBITRATION.

Reference to arbitration on application of the parties.

CCCXII. If the parties to a suit are desirous that the matters in difference between them in the suit, or any of such matters, shall be referred to the final decision of one or more arbitrator or arbitrators, they may apply to the Court at any time before final judgment for an order of reference.

Application how to be made.

CCCXIII. The application shall be made by the parties in person, or by their pleaders specially authorized in that behalf by an instrument in writing, which shall be presented to the Court at the time of making the application, and shall be filed with the proceedings in the suit.

Nomination and appointment of arbitrators.

CCCXIV. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration and the parties are desirous that the nomination shall be made by the Court, the Court shall appoint the arbitrator or arbitrators.

Order of reference.

CCCXV. The Court shall, by an order under its seal, refer to the arbitrator or arbitrators the matters in difference in the suit which he or they may be required to determine, and shall fix such time as it may think reasonable for the delivery of the award, and the time so fixed shall be specified in the order.

CCCXVI. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed upon between the parties; or if they cannot agree, as the Court may determine.

When the reference is to two or more, the order shall provide for difference of opinion.

CCCXVII. When a reference is made to arbitration by an order of Court, the Court shall issue the same processes to the parties and witnesses whom the arbitrator or arbitrators or umpire may desire to have examined, as the Court is authorized to issue in suits tried before it, and persons not attending in consequence of such process, or making any other default, or refusing to give their testimony, or being guilty of any contempt to the arbitrator or arbitrators or umpire during the investigation of the suit, shall be subject to the like disadvantages, penalties, and punishments, by order of the Court on the representation of the arbitrator or arbitrators or umpire, as they would incur for the same offences in suits tried before the Court.

Summoning witnesses, punishment of contempts, &c.

CCCXVIII. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Court may from time to time enlarge the period for the delivery of the award, if it shall think proper. In any case in which an umpire shall have been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they shall have allowed their time or their extended time to expire without making an award, or shall have delivered to the Court or to the umpire a notice in writing stating that they cannot agree. Provided, that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Court, unless on proof that the delay in completing the award arose from corruption or misconduct of the arbitrator or arbitrators or umpire, or unless the award shall have been

Extension of time for making award.



made after the issue of an order by the Court superseding the arbitration and recalling the suit.

In case of death, incapacity or refusal to act as Arbitrators or Umpire, Court may appoint others instead.

CCCXIX. If, in any case of reference to arbitration by an order of Court, the arbitrator or arbitrators or umpire shall die, or refuse or become incapable to act, it shall be lawful for the Court to appoint a new arbitrator or arbitrators or umpire, in the place of the person or persons so dying, or refusing or becoming incapable to act. Where the arbitrators are empowered by the terms of the order of reference to appoint an umpire and do not appoint an umpire, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if, within seven days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court, upon the application of the party having served such notice as aforesaid, and upon proof to its satisfaction of such notice having been served, to appoint an umpire. In any case of appointment under this Section, the arbitrator or arbitrators or umpire so appointed shall have the like power to act in the reference, as if their name or names had been inserted in the original order of reference.

Award how to be submitted to Court.

CCCXX. When an award in a suit shall be made either by the arbitrator or arbitrators or by the umpire, it shall be submitted to the Court under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the suit.

Arbitrator may state special case.

CCCXXI. It shall be lawful for the arbitrator or arbitrators or umpire, upon any reference by an order of Court, if he or they shall think fit, and if it is not provided to the contrary, to state his or their award as to the whole or any part thereof in the form of a special case for the opinion of the Court.

Court may, on application, modify or correct an award in certain cases. And make order respecting costs.

CCCXXII. The Court may on the application of either party modify or correct an award, where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part

and does not affect the decision on the matter referred; or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision. The Court may also on such application make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

CCCXXIII. In any of the following cases the Court shall have power to remit the award, or any of the matters referred to arbitration, to the re-consideration of the same arbitrator or arbitrators or umpire, upon such terms as it may think proper (that is to say)—

**In what cases Court may remit the award, or any of the matters referred to arbitration, for reconsideration.**

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration

If the award is so indefinite as to be incapable of execution.

If an objection to the legality of the award is apparent upon the face of the award.

CCCXXIV. No award shall be liable to be set aside, except on the ground of corruption or misconduct of the arbitrators or umpire. Any application to set aside an award shall be made within ten days after the same has been submitted to the Court.

**Award not to be set aside, except on ground of corruption. Application to set aside the award.**

CCCXXV. If the Court shall not see cause to remit the award or any of the matters referred to arbitration for reconsideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the Court shall have refused such application, the Court shall proceed to pass judgment according to the award, or according to its own opinion on the special case if the award shall have been submitted to it in the form of a special case; and upon the judgment which shall be so given decree shall follow, and shall be carried into execution in the same manner as other decrees of the Court. In every case in which judgment shall be given according to the award, the judgment shall be final.

**Judgment to be according to the award.**

Agreement of parties to refer to arbitration may be filed in the Court. Provisions of this Chapter applicable.

CCCXXVI. When any persons shall by an instrument in writing agree that any differences between them or any of them shall be referred to the arbitration of any person or persons named in the agreement, or to be appointed by any Court having jurisdiction in the matter to which it relates, application may be made by the parties thereto or any of them that the agreement be filed in such Court. On such application being made, the Court shall direct such notice to be given to any of the parties to the agreement, other than the applicants, as it may think necessary, requiring such parties to show cause, within a time to be specified, why the agreement should not be filed. The application shall be written on a stamp paper of one-fourth of the value prescribed for plaints in suits, and shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant, if the application have been presented by all the parties; or, if otherwise, between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shewn against the agreement, the agreement shall be filed and an order of reference to arbitration shall be made thereon. The several provisions of this Chapter, so far as they are not inconsistent with the terms of any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court, and to the award of arbitration and to the enforcement of such award.

Filing in Court an award, when the matter was referred to arbitration without intervention of Court. Enforcement of such award.

CCCXXVII. When any matter has been referred to arbitration without the intervention of any Court of Justice, and an award has been made, any person interested in the award may, within six months from the date of the award, make application to the Court having jurisdiction in the matter to which the award relates, that the award be filed in Court. The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring such parties to show cause, within a time to be specified, why the award should not be filed. The application shall be written

on the stamp paper required for petitions to the Court where a stamp is required for petitions by any law for the time being in force, and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the award, the award shall be filed and may be enforced as an award made under the provisions of this Chapter.

## CHAPTER VII.

### OF PROCEEDINGS ON AGREEMENT OF PARTIES

#### HOW QUESTIONS MAY BE RAISED FOR THE DECISION OF A CIVIL COURT BY ANY PERSONS INTERESTED.

CCCXXVIII. Parties interested or claiming to be interested in the decision of any question of fact or law may enter into an agreement, which shall be subject to the same stamp duty as prescribed for plaints in suits, that, upon the finding of a Court in the affirmative or negative of such question of fact or law, a sum of money fixed by the parties, or to be determined by the Court, shall be paid by one of the parties to the other of them; or that some property, moveable or immoveable, specified in the agreement, shall be delivered by one of the parties to the other of them; or that one or more of the parties shall do or perform some particular legal act, or shall refrain from doing or performing some particular act specified in the agreement. Where the agreement is for the delivery of some property moveable or immoveable, or for the doing or performing or the refraining to do or perform any particular act, the estimated value of the property to be delivered, or to which the act specified may have reference, shall be stated in the agreement.

CCCXXIX. The agreement may be filed in any Court having jurisdiction in the matter, and, when so filed, shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as

Questions of fact or of law or equity, may be raised by agreement for the decision of any Court having jurisdiction.

Agreement to be filed and numbered as a suit.

plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and notice shall be given to all the parties to the agreement other than the party or parties by whom it was presented.

Parties to be  
subject to the  
Court's jurisdic-  
tion.

CCCXXX. After the agreement shall have been filed, all the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Hearing and  
disposal of the  
case.

CCCXXXI. The case shall be set down for hearing as an ordinary suit; and if the Court shall be satisfied, after an examination of the parties or their pleaders, or taking such evidence as it may deem proper, that the agreement was duly executed by the parties, and that they have a *bond fide* interest in the question of fact or law stated therein, and that the same is fit to be tried or decided, it shall proceed to record and try or hear the same, and deliver its finding or opinion thereon, in the same way as in an ordinary suit; and shall, upon its finding or deciding upon the question of fact or law, give judgment for the sum fixed by the parties, or so ascertained as aforesaid, or otherwise according to the terms of the agreement, and, upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

## CHAPTER VIII.

### OF APPEALS.

CCCXXXII. *Repealed by Act XXIII, 1861. Sec 1.*

#### HOW APPEALS ARE TO BE PREFERRED.

Appeal to be  
preferred by a  
memorandum to  
be presented to  
the Appellate  
Court within spe-  
cified time.

CCCXXXIII. Appeals shall be made in the form of a memorandum which shall be presented in the Appellate Court within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of the Appellate Court for not having presented it within such

limited period; that is to say, within thirty days if the appeal be to a District Court, and within ninety days if the appeal be to the Sudder Court. The days shall be reckoned from and exclusive of the day on which judgment was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against.

CCCXXXIV. The memorandum of appeal shall set forth concisely, and under distinct heads, the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. The appellant shall not without the leave of the Court urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant.

What the memorandum is to contain.

CCCXXXV. The memorandum of appeal shall be in the following form, or to the following effect, and shall be accompanied by a copy of the decree appealed against—

Form of memorandum

*Memorandum of Appeal.*

(Name, &c. as in Register.) . Plaintiff.

(Name, &c. as in Register) Defendant.

[Name of Appellant] Plaintiff [or Defendant] above-named appeals to the Sudder Court at [or Zillah Court at as the case may be], against the decree of in the above suit, dated the day of ; for the following reasons, namely, [*here state the reasons.*]

CCCXXXVI. If the memorandum be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. If the memorandum be not presented within the prescribed period and no sufficient cause be shown for the delay, the appeal shall be rejected.

If memorandum be not in form or duly presented.

CCCXXXVII. If there be two or more plaintiffs or two or more defendants in a suit, and the decision of the Lower Court proceed on any ground common to all, any one of the

One of several plaintiffs or defendants may appeal and obtain a reversal of the whole decree, if it proceed on a ground common to all.

plaintiffs or defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favor of all the plaintiffs or defendants.

#### OF STAYING AND EXECUTING DECREES UNDER APPEAL.

Execution of decree may be stayed on appeal; but only if sufficient cause be shown. Court, before making such order, shall require security for due performance of decree or order of Appellate Court.

CCCXXXVIII. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against such decree; but the Appellate Court may, for sufficient cause shown, order that execution be stayed. If application for execution be made before the time allowed for appeal has expired, and the Lower Court has not received intimation of an appeal having been preferred, the Lower Court, if sufficient cause been shown, may stay the execution. Before making an order to stay execution, the Court making the order shall require security to be given by the party against whom the decree was passed for the due performance of the decree or order of the Appellate Court.

#### CCCXXXIX. *Repealed by Act XXIII, 1861. Sec. 1.*

No such security to be required from Government or from any public Officer

CCCXL. In suits instituted or defended under the authority and at the expense of Government, no such security as is mentioned in the last two preceding Sections shall in any case be required from Government or from any public officer.

#### OF PROCEDURE IN APPEALS FROM DECREES.

How the appeal is to be entered. Form of the Register.

CCCXLI. When a memorandum of appeal is presented in the prescribed form and within the time allowed, the Appellate Court, or the proper officer of that Court, shall endorse thereon the date of presentment, and shall register the appeal in a book to be kept for the purpose, and called the Register of Appeals. Such Register shall be in the form contained in the Schedule (C) hereunto annexed.

Appellate Court may require security for costs from appellant.

CCCXLII. It shall be in the discretion of the Appellate Court to demand security for costs from the appellant or not, as it shall see fit, before the respondent is called upon to appear and answer. Provided that the Court shall

Proviso.

demand such security in all cases in which the appellant is residing out of the British Territories in India, and is not possessed of any land or other immoveable property within those territories independent of the property to which the appeal relates; and in the event of such security not being furnished at the time of presenting the memorandum of appeal, or within such time as the Court shall order, the Court shall reject the appeal.

CCCXLIII. When the memorandum of appeal has been registered, the Appellate Court shall send intimation thereof to the Lower Court. If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Lower Court shall, upon the receipt of the intimation, transmit to the Appellate Court with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court. Either party may give notice in writing to the Lower Court, specifying any exhibits of which he requires copies to be made and deposited in the Lower Court, and copies of such exhibits shall be prepared at the expense of the party giving the notice, and shall be deposited in the Lower Court.

Appellant to send intimation to Lower Court being registered. Lower to transmit papers to Appellate Court. Either party may give notice of exhibits of which he requires copies.

CCCXLIV. A day shall be fixed by the Appellate Court for the hearing of the appeal. The day shall be so fixed, with reference to the place of residence of the respondent and the time necessary for the service of the notice of appeal, as to allow the respondent a sufficient time to enable him to appear in person or by a pleader on such day.

Day of hearing the appeal, how to be fixed.

CCCXLV. Notice of the day which has been fixed for hearing the appeal shall be affixed in the Appellate Court, and a like notice shall be sent by the Appellate Court to the Lower Court, and shall be served on the respondent in the same way as hereinbefore provided for the service of a summons to a defendant to appear and answer, and all rules applicable to such summons and to proceedings with reference to the service thereof shall apply to the service of such notice. The notice to the respondent shall contain an intimation, that, if he does not appear in the Appellate Court on the

Publication and service of notice of the day fixed. Form of notice.



day so fixed for the hearing of the appeal, the case will be heard and decided *ex parte* in his absence. Provided that, if the respondent has appointed a pleader to appear in his behalf in the Appellate Court, the service of the notice on such pleader shall be sufficient.

Consequence of  
non-appearance.

CCCXLVI. If, on the day fixed for hearing the appeal or any other day subsequent thereto to which the hearing of the appeal may be adjourned, the appellant shall not appear in person or by a pleader, the appeal shall be dismissed for default. If the appellant shall appear in person or by a pleader, and the respondent shall not appear in person or by a pleader, the appeal shall be heard *ex parte* in his absence.

Re-admission of  
appeals dismissed  
for default of pro-  
secution

CCCXLVII. If an appeal be dismissed for default of prosecution, the appellant may, within thirty days from the date of the dismissal, apply to the Appellate Court for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Court may re-admit the appeal.

Respondent may  
object to decision  
of Lower Court.

CCCXLVIII. Upon the hearing of the appeal, the respondent may take any objection to the decision of the Lower Court, which he might have taken if he had preferred a separate appeal from such decision.

how to give judg-  
ment. Court

CCCXLIX. The Appellate Court, after hearing the appeal, shall proceed to give its judgment in the manner hereinbefore prescribed for giving judgment in Courts of original jurisdiction.

No decision to  
be reversed for ir-  
regularity.

CCCL. The judgment may be for confirming or reversing or modifying the decree of the Lower Court. But no decree shall be reserved or modified, nor shall any case be remanded to the Lower Court on account of any error, defect, or irregularity, either in the decision or in any interlocutory order passed in the suit, not affecting the merits of the case or the jurisdiction of the Court.

When a case  
may be remanded  
by Appellate  
Court.

CCCLI. If the Lower Court shall have disposed of the case upon any preliminary point so as to exclude any

evidence of fact which shall appear to the Appellate Court essential to the rights of the parties, and the decree of the Lower Court upon such preliminary point shall be reversed by the decree in appeal, the Appellate Court may, if it think right, remand the case, together with a copy of the decree in appeal, to the Lower Court, with directions to restore the suit to its original number in the Register, and proceed to investigate the merits of the case, and pass a decree therein.

CCCLII. It shall not be competent to the Appellate Court to remand a case for a second decision by the Lower Court, except as provided in the last preceding Section.

CCCLIII. When the evidence upon the record of the Lower Court is sufficient to enable the Appellate Court to pronounce a satisfactory judgment, the Appellate Court shall finally determine the case, notwithstanding that the judgment of the Lower Court has proceeded wholly upon some other ground.

CCCLIV. If the Lower Court shall have omitted to raise or try any issue, or to determine any question of fact, which shall appear to the Appellate Court essential to the right determination of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question of fact, the Appellate Court may frame an issue or issues for trial by the Lower Court, and may refer the same to the Lower Court for trial. Thereupon the Lower Court shall proceed to try such issue or issues, and shall return to the Appellate Court its finding thereon together with the evidence. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, file a memorandum of any objection to the finding; and after the expiration of the period so fixed, the Appellate Court shall proceed to determine the appeal.

CCCLV. It shall not be competent to the parties in an appeal to produce additional evidence in the Appellate Court, whether of exhibits or witnesses; but if it appear

Power to remand limited as above.

When the evidence is sufficient the Appellate Court must determine the case.

Trial of issues by Lower on reference from Appellate Court.

Parties not to produce additional evidence in Appellate Court. Court may call for it.

that the Lower Court refused to admit competent evidence, or if the Appellate Court require any exhibits to be produced or witnesses examined to enable it to pronounce a satisfactory judgment, or for any other substantial cause, the Appellate Court may allow additional exhibits to be received and any necessary witnesses to be examined, whether such witnesses shall have been previously examined in the Court below or not ; Provided that, whenever additional evidence is admitted by an Appellate Court, the reasons for the admission shall be recorded on the proceedings of such Court.

How additional evidence is to be taken.

CCCLVI. Whenever additional evidence is permitted to be received, it shall be competent to the Appellate Court to take such evidence before itself, or to require the Lower or any other Court, or to empower any person, to take such evidence and to transmit the evidence so taken to the Appellate Court. It shall also be competent to the Appellate Court to prescribe the manner in which such evidence shall be taken

Points to be defined.

CCCLVII. In all cases where additional evidence is permitted to be taken, the Appellate Court shall define the point or points to which the evidence is to be confined, and record the same on its proceedings.

*CCCLVIII Repealed by Act XXIII, 1861, Sec. 1.*

Judgment of the Appellate Court.

CCCLIX. The judgment of the Appellate Court shall be pronounced in open Court. It shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge or by the Judges concurring therein at the time of pronouncing it. The judgment shall be written in the English language ; but if the Judge shall not be able to write an intelligible judgment in that language, the judgment shall be written in the vernacular language of the Judge. When the language in which the judgment is written is not the language in ordinary use in proceedings before the Court, the judgment shall be translated into such language, and the translation shall be signed by the Judge or Judges. Any Judge dissenting from the judgment of the

In what language.

Dissent to be recorded.

Court shall state his opinion in writing, which shall form part of the record.

CCCLX. The decree of the Appellate Court shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and description of the parties appellant and respondent, and the memorandum of appeal, and shall specify clearly the relief granted or other determination of the appeal. It shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the original suit are to be paid. The decree shall be signed by the Judge or Judges who passed it, and shall be sealed with the seal of the Court. If there be a difference of opinion among the Judges of the Court, it, shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree, but the opinion of such Judge shall be recited in the decree. Certified copies of the decree shall be furnished to the parties in the same manner as hereinbefore provided in regard to the decrees of Courts of original jurisdiction.

What the decree is to contain.

CCCLXI. A copy of the decree or other order disposing of the appeal, certified by the Appellate Court or the proper Officer of such Court, and sealed with the seal of the Court, shall be transmitted to the Court which passed the first decree in the suit appealed from, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the original Register of the suit.

A certified copy to be transmitted to the Lower Court.

CCCLXII. Application for execution of the decree of an Appellate Court shall be made to the Court which passed the first decree in the suit, and shall be executed by that Court, in the manner and according to the rules hereinbefore contained for the execution of original decrees.

Decree how to be executed.

#### APPEALS FROM ORDERS.

CCCLXIII. No appeal shall lie from any order passed in the course of a suit and relating thereto, prior to decree;

No appeal from an order passed before decree, but

error or defect therein may be objected to on appeal.

but if the decree be appealed against, any error, defect, or irregularity in any such order, affecting the merits of the case or the jurisdiction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

No appeal from order relating to the execution of decree except as provided.

CCCLXIV. No appeal shall lie from any order passed after decree and relating to the execution thereof, except as is hereinbefore expressly provided.

Appeal from orders as to fines or imprisonment.

CCCLXV. All orders as to fines or the levying thereof, or as to imprisonment under this Act (except when the imprisonment is in execution of a decree) shall be subject to appeal.

Procedure in appeals from orders.

CCCLXVI. When an appeal from any order is allowed, the period for preferring the appeal and the procedure thereon shall be in all respects the same as in an appeal from a decree.

## CHAPTER IX.

### OF APPEALS IN FORMA PAUPERIS.

Who may appeal as pauper.

CCCLXVII. Any party to a suit, who may be unable to pay for the stamps required for the prosecution of an appeal from the decision passed therein, may be allowed to appeal as a pauper from such decision, subject to all the rules contained in the last preceding Chapter and in Chapter V in so far as they are applicable.

Application to whom and when to be presented.

CCCLXVIII. The application to be allowed to appeal *in forma pauperis* shall be written on a stamp paper of the value of one Rupee if the appeal lie to the District Court, and on a stamp paper of the value of two Rupees if the appeal lie to the Sudder Court, and shall be presented in the Appellate Court within the period allowed for the presentation of a memorandum of appeal.

Form of application.

CCCLXIX. The application shall contain the particulars required to be set forth in the memorandum of appeal, and shall be drawn up in the like manner. It shall have

annexed to it a Schedule of any moveable or immoveable property belonging to the applicant, with the estimated value thereof, and shall also be accompanied by copies of the judgment and decree from which the appeal is made.

CCCLXX. If the Appellate Court, upon a perusal of the application and of the judgment and decree of the Court below, shall see no reason to think that the decision of that Court is contrary to law or to some usage having the force of law or is otherwise erroneous or unjust, it shall reject the application. If the application be not rejected upon any of the grounds abovementioned, enquiry shall be made into the alleged pauperism of the applicant, and such enquiry may be conducted either by the Appellate Court, or by the Court from whose decision the appeal is made under the orders of the Appellate Court. Provided that, if the applicant was allowed to sue *in forma pauperis* in the Court below, no further enquiry in respect of his pauperism shall be necessary, unless the Appellate Court shall see special cause to direct such enquiry.

Procedure.

CCCLXXI. The order passed by the Appellate Court on an application to be allowed to appeal *in forma pauperis*, whether for the admission or rejection of the application, shall be final; but, if the application be rejected, the Appellate Court may, if it think proper, allow the applicant a reasonable time for preferring an appeal on a stamp of the value prescribed for appeals from decrees.

Effect of order by  
Appellate Court.

## CHAPTER X.

### OF SPECIAL APPEALS.

CCCLXXII. Unless otherwise provided by any law for the time being in force, a special appeal shall lie to the Sudder Court from all decisions passed in regular appeal by the Courts subordinate to the Sudder Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the

Special  
to Sudder  
Grounds of  
appeal.

procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground.

Application to be presented to the Sudder Court.

CCCLXXIII. The application for the admission of a special appeal shall be presented in the Sudder Court within the period prescribed for the presentation of a memorandum of appeal, and shall be accompanied by copies of the judgments and decrees of the Lower Appellate Court and of the Court of first instance. The application shall be written on a stamp paper of the value prescribed for regular appeals; but if the applicant be unable to pay for the stamps required for the prosecution of the appeal, the Sudder Court may admit him to appeal as a pauper, subject to all the rules contained in Chapter IX in respect to appeals from decrees *in forma pauperis*, in so far as the same may be applicable.

Form of application.

CCCLXXIV. The application shall set forth concisely the grounds of objection to the decision appealed against, without argument or narrative, and such grounds shall be numbered consecutively. The applicant shall not, without the leave of the Court, be heard in support of any other ground of objection; but the determination of the Court may be upon any ground on which a special appeal would lie.

CCCLXXV. *Repealed by Act XXIII, 1861, Sec. 1.*

## CHAPTER XI.

### REVIEW OF JUDGMENT.

Review of judgment. On discovery of new evidence &c.

CCCLXXVI. Any person considering himself aggrieved by a decree of a Court of original jurisdiction, from which no appeal shall have been preferred to a Superior Court—or by a decree of a District Court in appeal from which no special appeal shall have been admitted by the Sudder Court—or by a decree of the Sudder Court from which either no appeal may have been preferred to Her Majesty in Council, or, an appeal having been preferred, no proceedings in the suit

have been transmitted to Her Majesty in Council—and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him—may apply for a review of judgment by the Court which passed the decree.

CCCLXXVII. The application shall be made within ninety days from the date of the decree, unless the party preferring the same shall be able to show just and reasonable cause, to the satisfaction of the Court, for not having preferred such application within the limited period. If the application be made within the period above-mentioned, it shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required; but if made after the expiration of that period, it shall be written on the stamp paper prescribed for plaints.

Within what time and on what paper the application shall be made.

CCCLXXVIII. If the Court shall be of opinion that there are not any sufficient grounds for a review, it shall reject the application, but if it shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Court shall grant the review, and its order in either case, whether for rejecting the application or granting the review, shall be final. Provided, that no review of judgment shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree of which a review is solicited.

The order for granting or refusing review to be final.

CCCLXXIX. If the Court to which the application for a review of its judgment has been presented be a Court consisting of two or more Judges, whenever the Judge or Judges who may have passed the decree, or if the decree have been passed by two or more Judges, when any of such Judges shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of

Application for a review in the Sudder Court must be made to the Judges that passed the decree.



six months after the application, from considering the judgment to which the application refers, it shall not be competent to any other Judge or Judges of the same Court to enter upon a consideration of the merits of the application, and record an order or opinion thereon.

Procedure on application being granted.

CCCLXXX. When an application for a review of judgment is granted, a note thereof shall be made in the Register of suits or appeals (as the case may be), and the Court shall give such order in regard to the re-hearing of the suit as it may deem proper in the circumstances of the case.

## CHAPTER XII

### MISCELLANEOUS.

CCCLXXXI. *Repealed by Act XXIII, 1861, Sec 1.*

Act not to extend, except in certain cases, to Supreme and Presidency Small Cause Courts.

CCCLXXXII. Except so far as relates to the examination of witnesses under Commission and to the execution of decrees out of the jurisdiction of the Courts by which they were passed,\* this Act shall not extend to any suit instituted in any Court of Judicature established by Royal Charter or in any Court for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay.

Saving of jurisdiction and procedure of certain Village and Military Courts.

CCCLXXXIII. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure in Civil cases of Village Moonsiffs or Village or District Panchayets under the provisions of the Madras Code; or the jurisdiction or procedure of Military Courts of Request; or the jurisdiction or procedure of a single Officer duly authorized and appointed under the rules in force in the Presidencies of Fort St George and Bombay respectively, for the trial of small suits in military bazars at Cantonments and Stations occupied by the troops of those Presidencies respectively; or by

\* See Act X 1861, repealing Acts VII of 1841, in toto, and Acts XXXIII 1852, and XXXIV of 1855, except as to cases of Decrees by Supreme Courts.

Punchayets in regard to suits against Military persons, according to the rules in force under the Presidency of Fort St. George.

CCCLXXXIV. Nothing in this Act shall be held to affect the jurisdiction exercised by certain Jagheerdars and other authorities invested with powers under the provisions of Regulation XIII. 1830 of the Bombay Code (*for vesting certain Jagheerdare, Surinjameedars, and Enaydars with the power of deciding suits within the boundaries of their respective estates*) and Act XV of 1840 (*for extending Regulations XV. 1827 and XIII. 1830 of the Bombay Code to the Agents of Foreign Sovereigns*) or their procedure in the exercise of such jurisdiction; or to affect suits instituted under Regulation XI. 1816 of the Bengal Code (*for receiving, trying, and deciding claims to the right of inheritance or succession in certain Tributary estates in Zillah Cuttack*), or cases of the nature defined in Regulation XXIX. 1827 (*for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh*), Regulation VII. 1830 (*for bringing under the operation of the Regulations the territories comprised in the Southern Mahratta Country*), Regulations I and XVI, 1831 of the Bombay Code (*for extending the jurisdiction of the Agent of Government in the Dekkan and Khandesh and of the Political Agent in the Southern Mahratta Country over suits in which certain privileged persons are concerned*), Act XIX of 1835 (*relating to the jurisdiction and authority of the Assistant to the Agent for Sirdars in the Dekkan*), and Act XIII of 1842 (*to enable the holders of revenue which has been alienated to them by the State to collect that revenue within the Presidency of Bombay*), except that such suits and cases and the regular and special appeals to the Civil Courts allowed therein, shall be received, heard, and determined under the rules laid down in this Act, unless where those rules are inconsistent with any specific provisions contained in the Regulations and Acts above quoted.

Saving of certain special or local laws. To what extent this Act applies to them.

not to take  
effect in places not  
subject to the gen-  
eral  
until  
thereto.

CCCLXXXV. This Act shall not take effect in any part of the territories not subject to the general Regulations of Bengal, Madras, and Bombay, until the same shall be extended thereto by the Governor General of India in Council or by the Local Government to which such territory is subordinate, and notified in the Gazette \*

Interpretation.

CCCLXXXVI. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

"District."

The local jurisdiction of a Principal Civil Court of original jurisdiction shall be deemed a district for the purposes of this Act; and the words "District Court" shall mean such Court.

"Sudder Court."

In any part of the British territories in India to which this Act may be extended under the provisions of Section 385, the expression "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in such part of the said territories.

Commencement  
of operation of Act.

CCCLXXXVII. This Act shall come into operation in the Presidency of Bengal from the 1st day of July 1859, and in the Presidencies of Madras and Bombay from the 1st day of January 1860, or from such earlier day as the Local Government in those Presidencies respectively shall fix and shall publicly notify in the Gazette of the Presidency three months at least before the date so fixed. But if, in any suit pending at the time when this Act shall come into operation, it shall appear to the Court that the application of any provision of this Act would deprive any party to the suit of any

Pending suits.

\* This Section was modified by Act IV, 1860, Section 3, but the whole of Act IV, 1860, has been repealed by Act XXIII, 1861.

right in reference to the procedure of the suit, whether of appeal or otherwise, which but for the passing of this Act would have belonged to him, the Court shall proceed according to the law in force before this Act takes effect.

CCCLXXXVIII. From and after the time when this Act shall come into operation in any part of the British territories in India, the procedure of the Civil Courts in such part of the said territories shall be regulated by this Act, and, except as otherwise provided by this Act, by no other Law or Regulation.

Where Act comes into operation, Procedure of Civil Courts to be regulated by it only.

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SCHEDULE A.

Court of the \_\_\_\_\_ of \_\_\_\_\_ holden at \_\_\_\_\_  
 REGISTER OF CIVIL SUITS in the year 18 \_\_\_\_\_

| PLAINTIFF    |      | DEFENDANT   |                | CLAIM. |             | APPEARANCE     |                            | JUDGMENT  |           | APPEAL |           | EXECUTION    |                     | RETURN OF EXECUTION |                 |                        |                                                                        |
|--------------|------|-------------|----------------|--------|-------------|----------------|----------------------------|-----------|-----------|--------|-----------|--------------|---------------------|---------------------|-----------------|------------------------|------------------------------------------------------------------------|
| No. of Suit. | Name | Description | Place of abode | Name.  | Description | Place of abode | Day for Parties to appear. | Plaintiff | Defendant | Date.  | For whom. | Let writ be. | Date of Application | Date of Order       | Amount of Costs | Amount paid into Court | Minute of other Return than Payment or Arrest and Date of every Return |
|              |      |             |                |        |             |                |                            |           |           |        |           |              |                     |                     |                 |                        |                                                                        |

Date of presentation of plaintiff

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SCHEDULE B.

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No. of Suit.

In the Court of

at

Plaintiff.

Defendant.

(Name, description, and address.) . . .

Whereas [*here enter the name, description, and address of the plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the Register*]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [*if not specially required to appear in person state—"in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"*] to answer the above-named plaintiff. [*If the summons be for the final disposal of the suit, this further direction shall be added here; "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"*]: and you are hereby required to take notice, that, in default of your appearance on the day before mentioned, the suit will be heard and determined in your absence; and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

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## SCHEDULE C.

COURT at

REGISTER OF APPEALS from DECREES in the year 18 .

[illegible]

## SCHEDULE D.

SUDDER COURT at

## REGISTER OF SPECIAL APPEALS

| Date of Memorandum | N <sup>o</sup> . of Appeal | APPELLANT | RESPONDENT     | DESCRIPTED FROM                    | APPEAL-ANCT.              | JUDGMENT                        |
|--------------------|----------------------------|-----------|----------------|------------------------------------|---------------------------|---------------------------------|
|                    | Name                       |           | Name           | Of what Court                      | Day for parties to appear | Date.                           |
|                    | Description                |           | Description    | No. of Original Suit and of Appeal | Appellant                 | Confirmed, reserved, or altered |
|                    | Place of abode             |           | Place of abode | Particulars                        | Respondent                | For what or Amount              |
|                    |                            |           |                | Amount or value                    |                           |                                 |

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 ACT No. IX OF 1859.

 BENGAL,  
H. W. P.

*(Received the assent of the Governor General on the 30th April 1859.)*


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1. *Courts of Special Commission to be established. Proviso.*
2. *Court to consist of three Commissioners.*
3. *Notification of establishment of Court in any District.*
4. *Transfer of pending suits.*
5. *Court where to be held.*
6. *Form of plaint.*
7. *Verification of plaint. Punishment for false averment in plaint.*
8. *Presentation of plaint.*
9. *Procedure before hearing of suit.*
10. *Procedure on hearing.*
11. *Examination, &c., of witnesses.*
12. *Decisions.*
13. *No appeal.*
14. *Execution of decrees*
15. *Records of cases where to be deposited.*
16. *Validity of convictions of offences involving forfeiture of property, not to be questioned by any Court.*
17. *Validity of conviction not to be questioned because the record does not show in what capacity the convicting officer acted.*
18. *Property attached without adjudication of forfeiture. Validity of such attachment not to be questioned, unless offender surrender within one year and be acquitted, &c. Proviso.*
19. *Release of property attached as forfeited.*
20. *Act not to affect the rights of parties not charged with an offence punishable by forfeiture of property. Proviso.*

An Act to provide for the adjudication of claims to property seized as forfeited.

WHEREAS it is expedient to make provision for the adjudication of claims to property seized as forfeited, with a view to the speedy determination of the same; and whereas it is also expedient to remove doubts concerning the powers of officers or other persons to whom Commissions may have been issued for the trial of heinous offences in certain districts, and concerning the validity of convictions and adju-



dications of forfeiture made by such officers or other persons; It is enacted as follows:—

**Court of  
Commission  
established.**

I. It shall be lawful for the Executive Governments of the Lower and North-Western Provinces of the Presidency of Bengal, to establish within any part of the territories subject to their respective Governments, Courts of Special Commission for the trial and determination of claims to property seized as forfeited, and to assign, from time to time, such local jurisdiction to the Courts so established as may appear proper. Provided, that no additional expense shall be incurred by the establishment of any such Court without the previous sanction of the Governor General of India in Council.

**Proviso.**

**Court to consist  
of three Commis-  
sioners.**

II. Every Court established under this Act shall consist of not less than three Commissioners, who shall sit together for the trial and determination of claims; but any one or more of them shall have power to make all such orders as may be necessary for preparing the cases that may be instituted for trial and decision.

**Notification of  
establishment of  
Court in any Dis-  
trict.**

III. Whenever any Court shall be established under the provisions of this Act with jurisdiction in any district or districts, notice thereof shall be given by a written proclamation, of which copies shall be affixed in the several Courts and in the offices of the several Collectors and Magistrates of such district or districts; and the powers, heretofore vested in the Courts of such district or districts in respect of all cases cognizable by the Courts established under this Act, shall be suspended until such Courts shall be informed, by an order under the signature of the Secretary to Government, that the local jurisdiction of such Court of Special Commission has ceased, of which notice shall be given by proclamation in the manner aforesaid.

**Transfer of pend-  
ing suits.**

IV. Any case pending before any Court sitting as a Court of original jurisdiction at the time of the passing of this Act, in respect of a matter made cognizable by Courts established under its provisions, shall be transferred to the

Court of Special Commission within the limits of whose jurisdiction the property in dispute is situate, and such Court shall summon the defendant and proceed to dispose of the case in the same manner as if it had been instituted before it.

V. The Courts established under this Act shall be held at such place within the limits of their respective jurisdiction, as shall from time to time be appointed by the local Government.

Court where to be held.

VI. The **plaint** in suits instituted under this Act shall be written on the stamp paper prescribed for petitions of **plaint** in regular suits, and shall contain the following particulars, namely,

Form of **plaint**.

The name, description, and place of abode of the plaintiff, the relief sought for, the subject of the claim, and the cause of action; and if the suit be brought against a defendant other than the Government or some officer on the part of Government, the name, description, and place of abode of such defendant.

VII. The **plaint** shall be verified in the manner prescribed for the verification of **plaints** in Section XXVII, Act VIII of 1859, (*for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter*); and if the **plaint** contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabricating false evidence.

Verification of **plaint**. Punishment for false averment in **plaint**.

VIII. The **plaint** may be presented by the plaintiff in person or by his duly constituted representative, either in the principal Civil Court of original jurisdiction in the district in which the property or any part of the property in dispute is situate, or in the Court of Special Commission having jurisdiction over the claim under this Act. If the **plaint** be not presented in the Court of Special Commission, it shall be forwarded to such Court without delay.

Presentation of **plaint**.

**Procedure before  
hearing of suit.**

IX. The Court shall fix a day for the appearance of the parties and for the hearing of the suit, of which due notice shall be given to the parties or their representatives, and on the day so fixed the parties shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. If either party require the assistance of the Court to procure the attendance of a witness on such day, he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit, and the Court shall issue a subpoena requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the plaintiff on the day fixed for the hearing of the suit or at any subsequent stage.

**Procedure on  
hearing.**

X. On the day fixed for the hearing of the suit, or as soon after as may be practicable, the Court shall proceed to examine the plaintiff, or his representative when his personal attendance is not required, and the witnesses of the parties, and upon such examination and after inspecting the documents of the parties and making any further enquiry that may appear necessary, shall proceed to pass such order in the case in respect both to the claim and to the costs of suit as it may consider just and proper.

**Examination, &c.,  
of witnesses.**

XI. It shall not be necessary to take down the depositions of the witnesses in writing at length; but the Court, as the examination of each witness proceeds, shall reduce into writing the substance of what such witness deposes, and the deposition so taken shall form part of the record. In all other respects the provisions of the Regulations and Acts for procuring the attendance of witnesses and for the examination, remuneration, and punishment of witnesses in suits before the Civil Courts, shall be of equal force and effect in cases tried under this Act.

**Decisions.**

XII. The rules contained in Act XII of 1843 (*concerning the time at which and the language in which the decisions of the Judges in the Courts of the East India*

*Company are to be written*) shall be applicable to decisions passed under this Act.

XIII. No appeal shall lie from any decision passed under this Act, nor shall any such decision be open to revision.

No appeal.

XIV. The decrees of the Courts of Special Commission established under this Act shall be enforced by the Civil Courts of the district in which the property in dispute is situate, under the rules applicable to the execution of decrees passed by those Courts.

Execution of Decrees.

XV. The records of cases disposed of by Courts established under this Act shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the district in which the property in dispute is situate.

Records of cases where to be deposited.

XVI. Whenever any person shall have been convicted of an offence for which his property was forfeited to Government, no Court has power, in any suit or proceeding relating to such property, to question the validity of the conviction.

Convictions of offences involving forfeiture of property not to be questioned by any

XVII. Whenever any person shall have been convicted as above by an Officer having power to try and convict, the validity of any such conviction shall not be questioned upon the ground that the record of the conviction does not show in what capacity such Officer acted, or that it represents him to have acted in a different capacity from that in which he had power to convict.

Conviction not to be questioned because the record does not show in what capacity the convicting Officer acted.

XVIII. Whenever any property shall have been attached or seized, without either conviction or an adjudication of forfeiture by any Officer of Government as property forfeited or liable to be forfeited to Government, for an offence, for which, upon conviction, the property of the offender would be forfeited, the validity of such attachment or seizure shall not be called in question by any Court or other authority in any suit or proceeding, unless the offender or alleged offender shall, within one year after the seizure of his property, have surrendered himself for trial, and upon trial before a

Attachment of property without adjudication of forfeiture, not to be questioned, unless offender surrender within one year and be acquitted, &c.

Proviso.

competent Court shall have been or shall be acquitted of the offence, and shall prove to the satisfaction of the Court that he did not escape or keep out of the way for the purpose of evading justice. Nothing in this Section shall extend to persons entitled to pardon under Her Majesty's proclamation published in the Calcutta Gazette Extraordinary, dated the 1st of November 1858, or to any person, who, having surrendered himself within the period of one year after the seizure of his property, shall be discharged by order of Government without a prosecution.

Release of property attached as forfeited.

XIX. No Judge or other person acting as Commissioner under the provisions of Act XIV of 1857 (*to make further provision for the trial and punishment of certain offences relating to the Army, and of offences against the State*) and Act XVI of 1857 (*to make temporary provision for the trial and punishment of heinous offences in certain Districts*) has power to release property attached or seized as forfeited or as liable to be forfeited to Government except under the provisions of Section VIII, Act XXV of 1857 (*to render Officers and Soldiers in the Native Army liable to forfeiture of property for Mutiny and to provide for the adjudication and recovery of forfeitures of property in certain cases*), when the offender or alleged offender shall have surrendered himself for trial, and shall be tried and acquitted by such Judge or Commissioner, and shall prove that he did not escape or keep out of the way for the purpose of evading justice; and any order passed by any such Judge or Commissioner for the release of any property attached or seized as forfeited or liable to be forfeited to Government, except upon the acquittal before him of the person accused, and upon proof that he did not escape or keep out of the way for the purpose of evading justice, is hereby declared null and void.

Act not to affect the rights of parties not charged with an offence punishable by forfeiture of property.

XX. Nothing in this Act shall be held to affect the rights of parties not charged with any offence for which upon conviction the property of the offender is forfeited, in respect of any property attached or seized as forfeited or

liable to be forfeited to Government; Provided that no suit brought by any party in respect of such property shall be entertained, unless it be instituted within the period of one year from the date of the attachment or seizure of the property to which the suit relates. Proviso.

## ACT No. X OF 1859.\*

BENGAL.

(Received the assent of the Governor General on the 29th April 1859.)

## RECOVERY OF RENTS (BENGAL) ACT.

## ARRANGEMENT OF SECTIONS.

1. *Laws repealed and modified.*
2. *Ryot entitled to a pottah.*
3. *Ryots holding land at fixed rates to receive pottahs.*
4. *If rent of land be not charged for 20 years.*
5. *Ryots having right of occupancy, but not holding at fixed rates, to receive pottahs.*
6. *Right of occupancy of ryot cultivating or holding land for 12 years.*
7. *Saving of terms of written contracts.*
8. *Pottahs to which ryots not having rights of occupancy are entitled.*
9. *Person granting pottah entitled to a counterpart engagement.*
10. *Exactions in excess of rent or receipt withheld. Form of receipt.*
11. *Landholder not to compel the attendance of tenant for adjustment of rent or for any other purpose. Payment of rent to be enforced only under this Act. ●*
12. *Damages for extorting payment of rent by duress.*
13. *Enhancement of rent of ryot holding without written engagement, or after expiry, &c., thereof.*
14. *Mode of contesting enhancement of rent.*
15. *Dependent talookdar, &c., holding land at fixed rent without change since permanent settlement, not liable to enhancement of rent.*
16. *Rent not changed for 20 years, to be primâ facie evidence of occupancy at that rent since permanent settlement.*
17. *Grounds on which ryot having right of occupancy is liable to enhanced rent. That the rate paid by him is below that prevailing in adjacent places. That the value of the land, &c., has increased inde-*

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\* See Section 21, Act VI, 1862, of the Lieutenant Governor of Bengal in Council, which Act is to be read with and taken as part of this Act.

*pudently of the ryot. That the quantity of land held by the ryot is greater than he has paid rent for.*

18. *When ryot may claim abatement of rent.*
19. *Relinquishment of land by ryot after notice given.*
20. *What to be deemed an arrear of rent under this Act.*
21. *Liability of ryot to be ejected for arrear due. Proviso.*
22. *Liability of farmer to have lease cancelled for arrear due. Proviso.*
23. *Cognizance of suits under this Act.*
24. *Suits by Zemindars against their agents for money or accounts.*
25. *Ejection of cultivators, farmers, &c., by Zemindars. Proviso.*
26. *Measurement of lands.*
27. *Registry of transfers of talooks, &c. Proviso.*
28. *Applications to dispossess grantees of land exempt from revenue.*
29. *Suits by or against Surburakars or Talukdars of khas estates.*
30. *Time for commencement of suits generally.*
31. *Time for commencement of suits for grant of pottahs, &c.*
32. *Time for commencement of suits for arrears of rent. Proviso.*
33. *Time for commencement of suits against agents for money, &c.*
34. *Mode of instituting suits. Form of plaint or statement of claim.*
35. *Statement by whom to be presented.*
36. *Verification of statement. Punishment for false verification.*
37. *Statement of claim to be written on stamped paper. No stamp duty to be required for filing documents, &c.*
38. *Documentary evidence to be produced by plaintiff.*
39. *If plaintiff require production of document from defendant.*
40. *Form of plaint in suits for arrears of rent.*
41. *Form of plaint in suits for ejection of ryot, &c., or for recovery of occupancy or possession of land, &c.*
42. *Statement may be returned or allowed to be amended.*
43. *Issue of summons; personal attendance may be required.*
44. *The day to be specified in the summons how to be fixed. Defendant to be ordered to produce necessary documents, and to bring witnesses willing to attend without process.*
45. *Summons how to be served.*
46. *Endorsement by Nazir as to whether summons has been personally served or not.*
47. *Execution of process in another District.*
48. *Cost of serving summons or warrant to be deposited in Court.*
49. *Warrant of arrest in what cases to be issued.*
50. *Procedure after arrest of defendant.*
51. *Procedure when defendant is brought before the Collector under warrant. Form of security bond.*

52. *Procedure if warrant of arrest cannot be served upon the defendant.*

53. *Compensation for arrest applied for without reasonable cause.*

54. *Consequence of neither party appearing on the day of trial.*

55. *If defendant only appear to dispute the demand, Collector shall pass judgment by default ; but if defendant admit the claim, Collector shall decree upon such admission. Proviso.*

56. *If plaintiff only appear, Collector may proceed ex parte.*

57. *If defendant appear on a day to which the case is postponed, Collector may allow him to be heard in answer to the suit.*

58. *Renewal, reversal, and alteration of decrees ex parte or by default.*

59. *On appearance of parties, the parties to be examined by the Collector, and may cross-examine each other.*

60. *Examination of party, &c.*

61. *Witnesses to be examined.*

62. *Documentary evidence to be produced by defendant.*

63. *After examination, Collector may make his decree, if no further evidence is required.*

64. *Consequence of inability of agent to answer.*

65. *If necessary, Collector to record issue, and to fix a day for hearing further evidence.*

66. *Parties shall produce their witnesses on the day of trial ; or Collector, on application of either party, shall issue summons for the attendance of a witness.*

67. *Rules regarding attendance, examination, &c, of witnesses.*

68. *Consequence of parties not appearing on the day fixed for the trial of any issue.*

69. *Suits instituted or defended by Naiibs, Gomashahs, &c.*

70. *Personal attendance of plaintiff or defendant not required in certain cases.*

71. *Employment of authorized agents or mookhtars.*

72. *Collector may grant time or adjourn hearing.*

73. *Collector may cause local enquiry to be made.*

74. *Defendant may pay money into Court in satisfaction of the demand. If plaintiff elect to proceed, and ultimately recover no further sum than that paid into Court, he shall be liable to the subsequent costs.*

75. *No interest on deposits.*

76. *If on trial of suit for delivery of pottah, parties do not agree as to the time for which the pottah is granted, Collector to fix the time. Proviso.*

77. *If in actions for rent a third person appear as claimant, he is to be made a party to the suit. Proviso.*



78. *Suits for ejectment or cancelment of lease.*
79. *Judgment how to be pronounced.*
80. *If person required by the decree refuse to grant pottah, Collector may do so.*
81. *Refusal of person to execute kuboohiyat as required by the decree.*
82. *Mode of executing decree for ejectment or re-instatement of ryot* Punishment for obstructing execution.
83. *Mode of executing decree for cancelment of a lease, or for ejectment or re-instatement of a farmer or tenant.*
84. *In what case a judgment-debtor may be detained or imprisoned without issue of process of execution.*
85. *Liability of surety on failure to deliver judgment-debtor into custody*
86. *Issue of process of execution.*
87. *Application for execution against moveable property.*
88. *How long warrant shall continue in force.*
89. *Second and successive warrants.*
90. *After one year, execution not to issue without notice.*
91. *Execution not to issue against heir or representative of a deceased party without notice.*
92. *No process of execution to be issued three years after date of judgment.*
93. *Warrant against the person. Limit of imprisonment. If arrest be for non-delivery of accounts.*
94. *No person to be imprisoned a second time under same judgment.*
95. *Diet-money to be deposited at the time of issue of warrant.*
96. *Payment of diet-money in advance during imprisonment*
97. *Diet-money to be costs in suit.*
98. *List of property to be prepared, and proclamation of sale to be published, &c.*
99. *Custody and sale of movable property taken in execution.*
100. *Collector may stay sale of moveable property seized, if a third party claim any interest therein.*
101. *Collector to adjudicate such claims.*
102. *Claimant failing to establish his right, liable to pay compensation to judgment-creditor.*
103. *No appeal from order of Collector under the two last preceding Sections. Proviso.*
104. *Sale not vitiated by irregularity in publishing or conducting the same. Proviso.*
105. *Sale of transferable tenures in execution of decrees for arrears of rent.*

106. *If third party claim to be the lawful possessor of such under tenure, Collector to stay the sale and to enquire into and adjudicate upon the claim. Proviso.*

107. *Mode of adjudicating such claims.*

108. *Execution of decrees given in favor of sharers in undivided estates or tenures.*

109. *In all cases of decrees for money, if judgment cannot be satisfied by sale of debtor's moveable property, execution may be had against his immoveable property.*

110. *Mode of executing process, if immoveable property be a house or other building. If it be a saleable undertenure. If it be an estate or a share of an estate.*

111. *Consequence of objection being offered before the sale of any immoveable property.*

112. *Produce of the land to be held hypothecated for the rent. Arrears of rent may be recovered by distraint under the following rules. Cultivators who have given security to be exempt from distraint. Three Provisoes.*

113. *No distraint in certain cases.*

114. *Power of distraint to be exercised by managers under the Court of Wards, &c. Proviso.*

115. *Standing crops, and crops gathered but not stored, liable to distraint.*

116. *Defaulter to be served with a written demand &c. before or at the time of distraint.*

117. *Distress to be proportionate to the arrear, if not paid or tendered. List of property to be distrained, to be served on owner.*

118. *Standing crops &c., when attached, to be reaped and stored by the cultivator, or, if he neglect to do so, by the distrainer.*

119. *Distrainer may apply for aid to the Collector upon occasion of resistance made or apprehended.*

120. *Persons empowered to distrain may give written authority to their servants to do so.*

121. *Distress to be withdrawn, if defaulter tender payment of arrear and expenses of attachment prior to the day of sale.*

122. *Application for sale.*

123. *Form of application. Cost of notice upon defaulter to be deposited by distrainer.*

124. *Procedure by Civil Court Ameen, &c., on receipt of application.*

125. *Ameen to suspend sale on receipt of Collector's certificate of the institution of a suit.*

126. *Suit to contest distrainer's demand before issue of notice of sale.*

127. *Distress to be withdrawn, on receipt of Collector's certificate that the owner has executed a bond with security to pay amount of decree with interest and costs.*

128. *On expiration of period fixed in the proclamation of sale, if institution of suit to contest distrainer's demand have not been certified, sale may be proceeded with.*

129. *Place & manner of sale of distrained property.*

130. *If fair price be not offered, sale may be postponed to another day, and shall be then completed at whatever price may be offered.*

131. *Payment of purchase money.*

132. *Proceeds of sale.*

133. *Officers holding sales prohibited from purchasing.*

134. *All irregularities to be reported to the Collector. Officer not to proceed to sale, if he find that defaulter has not received due notice.*

135. *Recovery of expenses, if Ameen proceeds to place of sale and no sale takes place.*

136. *Proceedings of Civil Court Ameens, &c., subject to revision and orders of Collectors.*

137. *Second proclamation of sale.*

138. *Procedure after institution of suit to contest distrainer's demand.*

139. *Any person, whose property has been distrained for arrears of rent alleged to be due from another, may institute a suit against the distrainer, &c. Proviso.*

140. *Procedure if distrainer's right to distrain be disputed.*

141. *Persons, prevented from suing in time to save their property from sale, may sue for damages.*

142. *Also persons aggrieved by any illegal act of distrainer.*

143. *Unlawful distraint.*

144. *Time for commencing suits for damages.*

145. *Resistance of distraint.*

146. *Service of process.*

147. *Resistance of process.*

148. *Collector competent to hold a Court in any part of his jurisdiction. Proviso.*

149. *Agents or mookhtars.*

150. *Powers of Deputy Collectors.*

151. *Collectors and Deputy Collectors to be subject to direction and control of the Commissioners and the Boards of Revenue. No appeal from orders of Collectors and Deputy Collectors in certain cases.*

152. *Time for presenting appeals from orders.*

153. *No appeal from any decree of Collector for money below 100 Rupees, unless the decision involve some question of right to enhance rents, or some question relating to a title to land.*

154. *In suits not open to appeal, Collector may grant a re-hearing upon the discovery of new evidence, &c.*
155. *Appeal from decision of Deputy Collector.*
156. *Petition of appeal to be on stamp paper, &c.*
157. *Procedure in appeal.*
158. *Re-admission of appeal.*
159. *Judgment in appeal.*
160. *In what suits appeal to lie to Zillah Judge, or to Sudder Court.*
161. *Rules regarding presentation and hearing of appeals.*
162. *Suits to be preferred in the Revenue Office of the District or Sub-division in which the greater part of the lands is situate.*
163. *Except as above, Collector not to exercise jurisdiction in respect to lands situate beyond his District.*
164. *Deputy Collector entrusted with Police functions. not to exercise judicial powers under this Act.*
165. *What powers to be exercised by Assistants to Collectors.*
166. *Saving of rights of proprietors in respect of Putnee Tulooks, &c., under Regulation VIII. 1819.*
167. *Commencement of Act.*
168. *"Civil Jail." "Nazir." Number. Gender.*

An Act to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal.

WHEREAS it is expedient to re-enact with certain modifications the provisions of the existing law relative to the rights of ryots with respect to the delivery of pottahs and the occupancy of land, to the prevention of illegal exaction and extortion in connection with demands of rent, and to other questions connected with the same; to extend the jurisdiction of Collectors, and to prescribe rules for the trial of such questions, as well as of suits for the recovery of arrears of rent, and of suits arising out of the distraint of property for such arrears; and to amend the law relating to distraint; It is enacted as follows:—

I. The following Regulations and Acts and portions of Regulations and Acts are hereby repealed, except in so far as they repeal any other Regulation or Act, and except as to proceedings commenced before the date of this Act coming into force, namely,

Regulation XVII., 1793 (*to empower landholders to distraint and sell the personal property of ryots, &c.*)

Laws re  
and modified

So much of Regulation IV. 1794 (*to determine disputes regarding the grant of pottahs to ryots, &c.*) as is still in force,

Regulation XXXV. 1795 (*for better enabling individuals to recover arrears of rent or revenue due to them*),

Regulation XLV. 1795 (*to empower landholders in the Province of Benares to distrain, &c.*),

Sections IX and X Regulation LI. 1795 (*respecting ryotty pottahs in the Province of Benares*),

Sections I to XX Regulation VII. 1799 (*to enable landholders to realize their rents with greater punctuality, &c.*),

Sections I to XX Regulation V. 1800 (*to enable landholders in the Province of Benares to realize their rents with greater punctuality, &c.*),

Regulation XXVIII. 1803 (*to empower landholders in the Ceded Provinces to distrain, &c.*),

Sections IX and X Regulation XXX. 1803 (*prescribing rules for the grant in the Ceded Provinces of pottahs to ryots, &c.*),

Section IV Regulation II. 1805 (*to provide a limitation of time for certain suits, &c.*),

Section XIX Regulation VIII. 1805 (*for extending certain Regulations to the Ceded and Conquered Provinces, &c.*)

Sections V to XXIII. Regulation V. 1812 (*for amending some of the rules at present in force for the collection of the Land Revenue*),

Sections XV and XVI Regulation XIX. 1817 (*for amending certain Regulations in force relative to process for recovery of arrears of rent, &c.*),

Section XXVII. Regulation XX. 1817 (*relating to resistance to distraint for arrears of rent, &c.*),

Sections XVIII and XIX. Regulation VIII. 1819 (*relating to Putnee Talooks and the system established for the collection of rents generally, &c.*),

Section IV. Regulation, II. 1821 (*relating to the duties of City and Zillah Judges, &c.*),

Section XXII, and so much of Section XX and the following Sections of Regulation VII. 1822 (*relating to the settlement of the Land Revenue in the Ceded Provinces and Cuttack, &c.*) as apply to suits for rent, to complaints of excessive demand or undue exaction of rent or of the non-delivery of Pottahs or receipts, to suits against agents for money or accounts, or to any other suits or complaints arising out of disputes between landholders or farmers and their under-tenants respecting the rent and occupancy of land.

Regulation XIV. 1824 (*for modifying the rules in force for referring to the Collectors summary suits in cases of arrear or exaction of rent*),

Regulation VIII. 1831 (*for amending the existing provisions relative to the trial of summary suits and claims for arrears or exactions of rent*),

Act I of 1839 (*relating to the appointment of persons to sell property distrained for the recovery of arrears of rent*),

Act X of 1846 (*for regulating the proceedings in certain cases of distraint for arrears of rent*)—and

Act VIII of 1848 (*to modify the provisions of Sections IX, X, XI, and XIII of Regulation V. 1812 of the Bengal Code*).

Sections XIV and XV Regulation IX. 1833 *for the more speedy decision of certain suits, and for enforcing the production of village accounts, &c.*, so far as the same are applicable to the territories under the Government of the Lieutenant-Governor of Bengal, are also repealed.

Such parts of Regulation VIII. 1793 (*prescribing rules for the decennial settlement of the public Revenue in Bengal, Behar, and Orissa, &c.*), and Regulation XXX. 1803, as relate to the adjudication of penalties for the refusal of pottahs and receipts for rent, and for the exaction of any sums as abwab or in excess of the amount specified in any engagements for the payment of rent, and such parts of Section XXVI Act I of 1845 (*to amend Act No. XII of 1841, entitled "an Act for amending the Bengal Code in regard to*

*sales of land for arrears of Revenue*"), as relate to the enhancement of rents and the ejection of tenants by the purchaser of an estate sold for arrears of Government Revenue, are declared subject to the following modifications.

Ryot entitled to a pottah.

II. Every ryot is entitled to receive from the person to whom the rent of the land held or cultivated by him is payable, a pottah containing the following particulars:—

The quantity of land; and where fields have been numbered in a Government survey, the number of each field.

The amount of annual rent.

The instalments in which the same is to be paid.

And any special conditions of the lease.

If the rent is payable in kind, the proportion of produce to be delivered, and the time and manner of delivery.

Ryots holding land at fixed rates to receive pottahs.

III. Ryots who, in the Provinces of Bengal, Behar, Orissa, and Benares, hold lands at fixed rates of rent, which have not been changed from the time of the permanent settlement, are entitled to receive pottahs at those rates.

Presumption, if rent of land be not charged for 20 years.

IV. Whenever, in any suit under this Act, it shall be proved that the rent at which land is held by a ryot in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

Ryots having right of occupancy, but not holding at fixed rates, to receive pottahs.

V. Ryots having rights of occupancy, but not holding at fixed rates as described in the two preceding Sections, are entitled to receive pottahs at fair and equitable rates. In case of dispute, the rate previously paid by the ryot shall be deemed to be fair and equitable, unless the contrary be shown in a suit by either party under the provisions of this Act.

Right of occupancy of ryot cultivating or holding land for 12 years.

VI. Every ryot, who has cultivated or held land for a period of twelve years, has a right of occupancy in the land

so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but this rule does not apply to khomar, neejote, or seer land, belonging to the proprietor of the estate or tenure and let by him on lease for a term or year by year, nor (as respects the actual cultivator) to lands sublet for a term or year by year by a ryot having a right of occupancy. The holding of the father, or other person from whom a ryot inherits, shall be deemed to be the holding of the ryot within the meaning of this Section.

VII. Nothing contained in the last preceding Section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a ryot, when it contains any express stipulation contrary thereto.

*Saving of terms of written contracts.*

VIII. Ryots not having rights of occupancy are entitled to pottahs, only at such rates as may be agreed on between them and the persons to whom the rent is payable.

*Pottahs to which ryots not having rights of occupancy are entitled.*

IX. Every person who grants a pottah is entitled to receive from the person to whom the pottah is granted a kubooliyet or counterpart engagement in conformity with the terms of the pottah. The tender to any ryot of a pottah, such as the ryot is entitled to receive, shall be held to entitle the person to whom the rent is payable to receive a kubooliyet from such ryot.

*Person granting pottah entitled to a counterpart engagement.*

X. Every under-tenant or ryot, from whom any sum is exacted in excess of the rent specified in his pottah, or payable under the provisions of this Act, whether as abwab or under any other pretext, and every under-tenant, ryot, or cultivator from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the person receiving such rent, damages not exceeding double the amount so exacted or paid. Receipts for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

*Damages for exactions in excess of rent or for receipt withheld. Form of receipt.*



Landholder not to compel the attendance of tenant for adjustment of rent or for any other purpose.

XI. The power heretofore vested in Zemindars and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rents due to them other than are authorized by the provisions of this Act.

Damages for extorting payment of rent by duress.

XII. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or ryot by illegal confinement or other duress, such under-tenant or ryot shall be entitled to recover such damages, not exceeding in any case the sum of two hundred Rupees, as may be deemed a reasonable compensation for the injury done him by such extortion. An award of compensation under this Section shall not bar or affect any penalty or punishment to which the person practising such extortion may be subject by law.

Enhancement of rent of ryot holding without or after expiry, &c., of written engagement.

XIII. No under-tenant or ryot, who holds or cultivates land without a written engagement, or under a written engagement not specifying the period of such engagement, or whose engagement has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held or cultivated by him is situate, and has not been renewed, shall not be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served on such under-tenant or ryot, in or before the month of Chait, specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed. Such notice shall be served by order of the Collector on the application (which may be on plain paper) of the person to whom the rent is payable, and shall, if practicable, be served personally on the under-tenant or ryot. If for any reason the notice cannot be served personally upon the under-tenant or ryot, it shall be affixed at his usual place of residence, or if he have no such place of residence in the District in which the land is situate, the mode of service of such notice shall be by affixing it at the Mal Cutcherry of

such land or other conspicuous place thereon, or at the village Chowree or Chowpal, or at some other conspicuous place in the village in which the land is situate.

XIV. Any under-tenant or ryot, on whom such notice as aforesaid has been served, may contest his liability to pay the enhanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

Mode of contesting enhancement of rent.

XV. No dependent talookdar or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the ryots, who, in the Provinces of Bengal, Behar, Orissa, and Benares, holds his talook or tenure (otherwise than under a terminable lease) at a fixed rent which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in Section LI Regulation VIII 1793, or in any other law, to the contrary notwithstanding.

Dependent talookdar, &c., holding at fixed rent since permanent settlement not liable to enhancement.

XVI. Whenever, in any suit under this Act, it shall be proved that the rent at which a talook or other tenure is held in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that such talook or tenure has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or it be proved that such rent was fixed at some later period.

Presumption from rent of talookdar, &c., not having been changed for twenty years.

XVII. No ryot having a right of occupancy shall be liable to an enhancement of the rent previously paid by him except on some one of the following grounds, namely:—

Grounds on which ryot having right of occupancy is liable to enhanced rent.

That the rate of rent paid by such ryot is below the prevailing rate payable by the same class of ryots for land of a similar description and with similar advantages in the places adjacent.

That the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the ryot.

That the quantity of land held by the ryot has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

When ryot may claim abatement of rent.

XVIII. Every ryot\* having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the ryot, or if the quantity of land held by the ryot has been proved by measurement to be less than the quantity for which rent has been previously paid by him.

Relinquishment of land by ryot after notice given.

XIX. Any ryot, who desires to relinquish the land held or cultivated by him, shall be at liberty to do so, provided he gives notice of his intention in writing to the person entitled to the rent of the land, or his authorized agent, in or before the month of Chait of the year preceding that in which the relinquishment is to have effect. If he fail to give such notice, and the land is not let to any other person, he shall continue liable for the rent of the land. If the person entitled to the rent of the land or his agent refuse to receive any such notice and to sign a receipt for the same, the ryot may make an application on plain paper to the Collector, who shall thereupon cause the notice to be served on such person or his agent in the manner provided in Section XIII.

What to be deemed an arrear of rent under this Act.

XX. Any instalment of rent which is not paid on or before the day when the same is payable according to the pottah or engagement, or, if there be no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and, unless otherwise provided by written agreement, shall be liable to interest at twelve per centum per annum.

Liability of ryot to be ejected for arrear due.

XXI. When an arrear of rent remains due from any ryot at the end of the Bengal year, or at the end of the month of Jeth of the Fusly or Willayuttee year, as the case may be, such ryot shall be liable to be ejected from the land in

respect of which the arrear is due. Provided that no ryot, having a right of occupancy or holding under a pottah the term of which has not expired, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Proviso.

XXII. When an arrear of rent shall be adjudged to be due from any farmer or other lease-holder not having a permanent or transferable interest in the land, the lease of such lease-holder shall be liable to be cancelled, and the lease-holder to be ejected. Provided that no such lease shall be cancelled nor the lease-holder ejected, otherwise than in execution of a decree or order under the provisions of this Act.

Liability of farmer to have his lease cancelled for arrear adjudged due

Proviso.

XXIII.—1.—All suits for the delivery of pottahs or kubooliyets, or for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered ;

Cognizance of suits under this Act.

2. All suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress ;

3. All complaints of excessive demand of rent, and all claims to abatement of rent ;

4. All suits for arrears of rent due on account of land either kherajee or lakheraj, or on account of any rights of pasturage, forest-rights, fisheries, or the like ;

5. All suits to eject any ryot or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a ryot may be liable to ejectment or a lease may be liable to be cancelled ;

6. All suits to recover the occupancy or possession of any land, farm, or tenure, from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent for the same ;

7. All suits arising out of the exercise of the power of distraint conferred on Zemindars and others by Sections CXII and CXIV of this Act, or out of any acts done under color of the exercise of the said power as hereinafter particularly provided ;

Shall be cognizable by the Collectors of land revenue, and shall be instituted and tried under the provisions of this Act; and, except in the way of appeal as provided in this Act, shall not be cognizable in any other Court, or by any other Officer, or in any other manner.

Suits by Zemindars against their agents for money or accounts.

XXIV. Suits by Zemindars and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the surties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession, shall be cognizable by the Collectors, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court except in the way of appeal as provided in this Act.

Ejectment of cultivators, farmers, &c., by Zemindars.

XXV. If any Zemindar or other person in receipt of the rent of land requires assistance to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorized by any Regulation or Act, he shall make application to the Collector, and the Collector shall proceed thereupon to enquire into the case and pass orders in the manner provided for suits under this Act. Provided, that no such application for the ejectment of a farmer on the determination of a lease shall be received, if the lease be of the kind denominated *ticca zur-i-peshgee* or the like, in which an advance has been made by the leaseholder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the parties must proceed by suit in the Civil Court.

Proviso.

Measurement of lands.

XXVI.\* When rent is payable by an under-tenant or ryot at a certain rate or rates according to the quantity of

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\* Repealed, as regards the Lower Provinces, by Act No. VI, 1862, of Lieutenant Governor of Bengal in Council.

land held or cultivated by him ; or when any written engagement conditioned for the payment of a certain amount of rent on account of land held or cultivated by an under-tenant or ryot has expired, or become cancelled by the sale for arrears of revenue or rent of the estate or tenure in which the land is situate, the person to whom the rent is payable has a right to measure such land for the purpose of ascertaining the quantity of land actually held or cultivated by such under-tenant or ryot : and every proprietor of an estate or tenure has a right of making a general survey or measurement of the lands comprised in such estate or tenure, unless restrained from doing so by express engagement with the occupants of the lands. If any person, intending to measure any land which he has a right to measure, is opposed in making such measurement by the occupant of the land, or if any under-tenant or ryot, having received notice of the intended measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land, such person may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or ryot. If any under-tenant or ryot after the issue of an order enjoining his attendance neglects to attend, it shall not be competent to him to contest the correctness of the measurement made in his absence.

XXVII. All dependant talookdars, and other persons possessing a permanent transferable interest in land intermediate between the Zemindar and the cultivator, are required to register, in the Sherishteh of the Zemindar or superior tenant to whom the rents of their talooks or tenures are payable, all transfers of such talooks or tenures, or portions of them, by sale, gift, or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance. And every Zemindar or superior tenant is required to admit

Registry of transfers of talooks, &c.

to registry and otherwise give effect to all such transfers, when made in good faith, and all such successions and divisions. If any Zemindar or superior tenant refuse to admit to registry or otherwise give effect to any such transfer or succession, the transferee or successor may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and if no sufficient grounds are shown for the refusal, shall pass an order enjoining the Zemindar or superior tenant to admit to registry and otherwise give effect to such transfer or succession. Provided, that no Zemindar or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding without the consent in writing of the Zemindar or superior tenant.

**Proviso.**

**Applications to dispossess grantees of land exempt from revenue.**

XXVIII. So much of Section X Regulation XIX. 1793, Section X Regulation XLI. 1795, Section VI Regulation XXXI 1803, Section XXI Regulation VIII. 1805, and Section XXIV Regulation XII. 1805, as authorizes and requires proprietors and farmers of estates and dependent talooks, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the dates specified in the said Sections, of their own authority to collect the rents of such land, and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or talook in which it may be situate, is repealed; and any proprietor or farmer, who may desire to assess any such land or to dispossess any such grantee, shall make application to the Collector, and such application shall be dealt with as a suit under the provisions of this Act. Every such suit shall be instituted within the period of twelve years from the time, when the title of the person claiming the right to assess the land or dispossess the grantee, or of some person claiming under him, first accrued. If such period has already elapsed, or will elapse within two years from the date of the passing of this Act, such suit may be brought at any time within two years from such date.

**XXIX.** All suits, which under the provisions of this Act may be brought by or against Zemindars or other persons in the receipt of the rent of land, may be brought by or against Surburakars or Tuhseeldars of the estates held under khas management, whether such estates are the property of Government or of individuals. If the Collector or the Surburakar or Tuhseeldar of any such estates in the provinces of Bengal, Behar, and Orissa proceed against any defaulting ryot or under-tenant of such estate under the powers vested in him by Section XXV Regulation VII. 1799, and not according to the provisions of this Act, such ryot or under-tenant may contest the demand on account of which he is so proceeded against by suit in the Civil Court.

Suits by or against Surburakars or Tuhseeldars of estates held khas.

**XXX\*** Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

Time for commencement of

**XXXI.** Suits for the delivery of pottahs or kubooliyets and for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered, may be instituted at any time during the tenancy.

Time for commencement of suits for grant of pottahs, &c.

**XXXII.** Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, or from the last day of the month of Jeth of the Fusly or Willayuttee year in which the arrear claimed shall have become due. For arrears of rent due at the passing of this Act, suit shall be brought within three years after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent having been enhanced after issue of notice under Section XIII, and the enhancement not having been confirmed by any competent Court, the suit shall be instituted within three

Time for the commencement of suits for arrears of rent. *Proviso.*

\* See Act LIII. 1860.



months from the end of the Bengal year or of the month of Jeth of the Fussy or Willayuttee year, on account of which such enhanced rent is claimed.

Time for the  
commencement of  
suits against  
agents for money,  
papers, or accounts.  
Proviso.

XXXIII. Suits for the recovery of money in the hands of an agent, or for the delivery of accounts or papers by an agent, may be brought at any time during the agency, or within one year after the determination of the agency of such agent, or in the case of claims now existing within one year after the passing of this Act, or within the period now allowed for the institution of such suits in the Civil Court whichever may first expire. Provided, that if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case (except the case of claims now existing as aforesaid) be brought at any time exceeding three years from the termination of the agency.

Mode of institut-  
ing suits. Form of  
plaint or statement  
of claim.

XXXIV. Suits under this Act shall be instituted by presenting to the Collector a plaint or statement of claim, which shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance of the claim, and the date of the cause of action.

Statement by  
whom to be pre-  
sented.

XXXV. The statement of claim shall be presented by the plaintiff, or by an authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

Verification of  
statement. Punish-  
ment for false  
verification.

XXXVI. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following or to the like effect:

1, A. B, do declare that the above statement is true to the best of my knowledge and belief.

If the statement shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

*XXXVII. Repealed by Act XXXVI, 1860, Sec. 1.*

*XXXVIII.* If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Collector at the time of presenting his statement of claim. Unless such document be delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

Documentary evidence to be produced by plaintiff.

*XXXIX.* If the plaintiff require the production of any document in the possession or power of the defendant, he may, at the time of presenting his statement of claim, deliver to the Collector a description of the document, in order that the defendant may be required to produce the same.

If plaintiff require production of document from defendant.

*XL.\** If the suit be for the recovery of an arrear of rent, the statement shall specify the name of the village and estate, and of the Pergunnah or other local division in which the land is situate; and if the arrear is alleged to be due from any ryot, the quantity of land, and where fields have been numbered in a Government Survey, the number of each field, the yearly rent of the land, the amount (if any, received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

Form of plaint in suits for arrears of rent.

*XLI.* If the suit be for the ejectment of a ryot, farmer, or tenant, from any land, farm, or tenure, or for the recovery of the occupancy or possession of any land, farm, or tenure,

Form of plaint in suits for ejectment of ryot, &c., or for recovery of occupancy or possession of land.

\* Repealed as regards the Lower Provinces by Act No. VI, 1862 of the Lieutenant-Governor of Bengal in Council.

the statement shall describe (as circumstances may require) the extent, situation, and designation of the same; and, if necessary for the identification of the land, shall set forth the boundaries of such land.

Statement may be returned or allowed to be amended.

XLII. If the statement of claim do not contain the several particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Collector may return the statement to the plaintiff, or at his discretion allow it to be amended.

Issue of summons; personal attendance of defendant may be required.

XLIII. If the statement of claim be in proper form, the Collector, except as otherwise hereinafter especially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and satisfy the Collector that such personal attendance is necessary, or the Collector of his own accord require such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons, otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

The day to be specified in the summons how to be fixed. Defendant to be ordered to produce necessary documents, and to bring witness willing to attend without process.

XLIV. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be, or be supposed to be, at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence. It shall also enjoin him to bring with him his witnesses, if they are willing to attend without issue of process; and shall be in the form (A) contained in the Schedule to this Act or to the like effect.

Summons how to be served.

XLV. The summons shall be served by delivering a copy of the summons to the defendant personally when practicable; or if the summons cannot be served on the

defendant personally, by affixing a copy of it to some conspicuous part of his usual place of abode, and also affixing a copy of the same in the Collector's Office.

XLVI. If the summons be served personally, the Nazir shall endorse on the summons the fact of such service. If personal service be not effected, the Nazir shall endorse on the summons the reason of not serving it personally, and how it has been served.

Endorsement by Nazir if summons has been personally served or not.

XLVII. If the usual place of abode of the defendant be in another District, the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such District, who shall issue the summons and return the same, after service, with the prescribed endorsement, to the Officer by whom it was transmitted to him.

Execution process in another District.

XLVIII. The amount of the cost of serving the summons, or, if a warrant be issued as provided in the next succeeding Section, of serving the warrant, shall in all cases be deposited in Court upon the same day, or the day next following that on which the plaint or statement of claim is presented to the Collector. If the said amount be not so deposited (except in cases in which the Collector may allow the issue of summons free of cost under the discretion reserved to him in Section (XLVI), the case shall not be brought on the file of suits : but in such case the plaintiff may present another plaint at any time within the period allowed by the rules for the limitation of actions.

Cost of serving summons or warrant to be deposited in Court.

XLIX. If in any suit against an under-tenant or ryot for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers, or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant. When such application is presented, the Collector shall examine the plaintiff or his agent, on his oath or affirmation

Warrant of arrest in what cases to be issued

or otherwise according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *prima facie* grounds for believing the claim to be well-founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Collector may issue a warrant for the arrest of the defendant. The Collector shall fix a reasonable time for the return of the warrant, which shall be in the form (B) contained in the Schedule to this Act or to the like effect, and the Officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant (which shall be in the form (C) in the Schedule or to the like effect) containing the particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence. But no such warrant shall be issued in a suit for arrears of rent due in respect of a depeñtent talook or other transferable tenure, which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

Procedure after  
arrest of defen-  
dant.

L. If a defendant be arrested under the warrant, of arrest, he shall be brought with all convenient speed before the Collector, and the Collector shall commit him to custody, unless he deposit in Court such sum as may be specified in the notice.

Procedure when  
defendant is  
brought before the  
Collector under  
warrant. Form of  
security bond.

LI. When a defendant is brought before the Collector under warrant, the Collector shall with all convenient speed proceed to try the case in the manner hereinafter provided; and if the suit cannot be at once adjudicated, the Collector may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is depending, or until execution of the final decree which may be passed thereon, and may commit the defendant to the Civil jail to be there detained until he shall furnish such security or deposit such sum as the Collector

shall order. The security bond shall be in the form (D) contained in the Schedule to this Act or to the like effect.

LII. If the defendant cannot be arrested under the warrant, the Collector, on the application of the plaintiff, shall either postpone the case for such period as he may think proper in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed in his own Office and at the residence of the defendant, fixing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant. If the defendant shall appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding Section.

Procedure if  
warrant of arrest  
cannot be served  
upon the defend-  
ant.

LIII. If it shall appear to the Collector that the arrest of the defendant was applied for without reasonable cause, the Collector may in his decree award to the defendant such sum, not exceeding one hundred Rupees, as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest or of his detention in jail during the pendency of the suit.

Compensation for  
arrest applied for  
without reasonable  
cause.

LIV. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned, prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off, with liberty to the plaintiff to bring a fresh suit, unless precluded by the rules for the limitation of actions.

Consequence of  
neither party ap-  
pearing on the day  
of trial.

LV. If on any such day the defendant only appear, the Collector shall pass judgment against the plaintiff by default, unless the defendant admit the cause of action, in which case the Collector shall proceed to give judgment for the plaintiff upon such admission without costs, provided that such judgment, if there be more than one defendant,

If defendant only  
appear to dispute  
the demand, Col-  
lector shall pass  
judgment by de-  
fault; but if defend-  
ant admit the  
claim, Collector  
shall decree upon  
such admission.  
Proviso.

shall be only against the defendant who makes the admission.

If plaintiff only appear, Collector may proceed *ex parte*.

LVI. If on any such day the plaintiff only appear, the Collector, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

If defendant appear on a day to which the case is postponed, Collector may allow him to be heard in answer to the suit.

LVII. If the defendant shall appear on any subsequent day to which the hearing of the suit may be postponed under the last preceding Section, the Collector may upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer to the suit, as if he had appeared on the day fixed for his attendance.

Revival, reversal, and alteration of *ex parte* or by default.

LVIII. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all such cases, if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of the Collector's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shall show good and sufficient cause for his previous non-appearance, and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case. But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

On appearance of parties, the parties to be examined by the Collector, and may cross-examine each other.

LIX. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for

sufficient reason to be recorded by the Collector, the Collector shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other. If either of the parties be not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally. At the time of examination the defendant, if he think fit, may file a written statement of his defence.

LX. The examination of the parties or their agents or such other persons as aforesaid shall be upon oath or affirmation, or otherwise according to the law for the time being in force relative to the examination of witnesses. The substance of the examination shall be reduced to writing in the vernacular language of the Collector, and filed with the record.

Examination of parties, &c.

LXI. If either of the parties shall bring forward a witness on such day, the Collector may take the evidence of such witness.

Witnesses to be examined.

LXII. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document be so delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

Documentary evidence to be produced by art.

LXIII. If after the examination required by Section LIX and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Collector shall make his decree accordingly.

After examination, Collector may make his decree.

LXIV. If, on such examination as aforesaid, the agent of either party be unable to answer any material question relating to the case, which the Collector is of opinion that

Consequence of inability of agent to answer.



the party whom he represents ought to answer and is likely to be able to answer if interrogated in person, the Collector may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day; and if the party so directed to attend shall fail to appear in person on the day appointed, the Collector may pass judgment as in case of default, or make such other order as he may deem proper in the circumstances of the case.

If necessary, Collector to record issue and to fix a day for hearing her evidence.

LXV. If, on such examination as aforesaid, it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Collector shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day, unless there be sufficient reason for adjourning it, which reason shall be recorded by the Collector.

Parties shall produce their witnesses on the day of trial; or Collector on application shall summon witnesses.

LXVI. The parties shall bring forward their witnesses on the day of trial, and, if either party require assistance to procure the attendance of a witness on such day either to give evidence or to produce a document, he shall apply to the Collector, in sufficient time before the day fixed for the trial to enable the witness to be summoned to attend on that day; and the Collector shall issue a summons requiring such witness to attend.

Rules regarding attendance, examination, &c., of witnesses.

\* LXVII. The provisions of the Regulations and Acts, and all other rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witnesses and the production of documents, and for the examination, remuneration and punishment of witnesses, whether parties to the case or not, in cases before the Civil Court of the Presidency of Bengal, shall, except so far as the same may be inconsistent with the provisions of this Act, apply to and be of equal force and effect in suits under this Act.

\* Extended by Section 10, Act VI of 1862 of the Lieutenant Governor of Bengal in Council to proceedings under that Section.

LXVIII. If, on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in Section LIV. If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party upon such proof as may be then before the Court.

Consequence of parties not appearing on the day fixed.

LXIX. When suits under this Act are instituted or defended by Naibs, Gomastahs or other persons employed in the collection of rent or management of land in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such Naibs, Gomastahs, or other persons; and anything, which by this Act is required or permitted to be done by a party in person, may be done by any such person as aforesaid. Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

Suits instituted or defended by Naibs, Gomastahs, &c.

LXX. A plaintiff or defendant shall not be required to attend in person, if of the female sex and of a rank or class which, according to the custom and manners of the country, would render it improper for her to appear in public.

Person-  
dance of females of rank not required.

LXXI. Any party to a suit may employ an authorized agent or mookhtar to conduct the case on his behalf, but the appointment of such agent or mookhtar shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court; *and no fee for any agent shall be charged as part of the costs of suit in any case under this Act.\**

it of agents

\* Modified by Act VI, 1862, Section 14, of the Lieutenant Governor of Bengal in Council.

Collector may  
grant time or ad-  
journ hearing.

LXXII. The Collector may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also from time to time, in order to the production of further proof or for other sufficient reason to be recorded by the Collector, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Collector may  
cause local enquiry  
to be made.

LXXIII. The Collector may, at any stage of a case, cause a local enquiry and report respecting the matter in dispute to be made by any Officer subordinate to him, or by any other Officer of Government with the consent of the authority to whom such Officer is subordinate, or may himself proceed to the spot and make such local enquiry in person. The provisions of the law for the time being in force, relative to local enquiries by Amceens or Commissioners under orders of the Civil Courts, shall apply to any local enquiry made by any Officer under this Section, and, so far as they are applicable, to enquiries made by the Collector in person. In the latter case the Collector, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

Defendant may  
pay money into  
Court in satisfac-  
tion of the demand.

\* LXXIV. The defendant in any action under this Act may pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sum shall be paid to the plaintiff. If the defendant deposit less than the sum claimed and the plaintiff elect to proceed in the case, and ultimately recover no further sum than shall have been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

No interest on  
deposits.

LXXV. No interest shall be allowed to a plaintiff on any sum paid by the defendant into any Court from the

\* Repealed by Act VI, 1862, of the Lieutenant Governor of Bengal in Council.

date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

LXXVI. If, on the trial of a suit for the delivery of a pottah instituted by a ryot having a right of occupancy, the parties do not agree as to the term for which the pottah is to be granted, the Collector shall fix such term as under the circumstances of the case he may think just and proper. Provided, that the term shall not in any case be longer, than ten years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government. Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pottah shall not extend beyond the period of the continuance of such interest. For cultivators not having a right of occupancy, the term of pottah shall be exclusively in the discretion of the person entitled to the rent of the land.

If parties do not agree as to the time for which the pottah is granted, Collector to fix it.

LXXVII. When, in any suit between a landholder and a ryot or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the ryot or under-tenant is disputed, and such right is claimed by or on behalf of a third person on the ground that such third person, or a person through whom he claims, has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into, and the suit shall be decided according to the result of such enquiry. Provided always, that the decision of the Collector shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in the Civil Court, if instituted within one year from the date of the decision.

If in actions for rent a third person appear as claimant, he is to be made a party to the suit.

LXXVIII. Any person desiring to eject a ryot or to cancel a lease on account of non-payment of arrears of rent,

Suits for ejectment or cancellation of lease.

may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent, as evidence of the existence of such arrear, in a suit for such ejectment or cancelment. In all cases of suits for the ejectment of a ryot or the cancelment of a lease, the decree shall specify the amount of the arrear, and if such amount, together with interest and costs of suit, be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

Judgment how  
to be pronounced.

\* LXXIX. The Collector shall pronounce judgment in open Court. The judgment shall be written in the Vernacular language of the Collector and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced.

If person required by the decree refuse to grant pottah, Collector may do so.

LXXX. When a decree is given for the delivery of a pottah, if the person required by the decree to grant such pottah refuse or delay to grant the same, the Collector may grant a pottah in conformity with the terms of the decree under his own hand and seal, and such pottah shall be of the same force and effect as if granted by the person aforesaid.

Refusal to execute kubooliyet as required by the decree.

LXXXI. When a decree is given for the delivery of a kubooliyet, if the person required by the decree to execute such kubooliyet shall refuse to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Collector shall be of the same force and effect as a kubooliyet executed by the said person.

Execution of decree for ejectment or re-instatement of ryot.

LXXXII. If the decree be for the ejectment of any ryot from land occupied by him, or for the re-instatement of any ryot in the occupancy of land from which he has been ejected, the decree shall be executed by giving the possession or occupancy of the land to the person entitled by the decree

to such possession or occupancy. If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Magistrate, on the application of the Collector, shall give effect to the same.

**LXXXIII.** If the decree be for the cancelment of any lease, or the ejectment of any farmer or other person (not being an actual cultivator), or for the re-instatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum or in such other manner as may be customary, and affixing the same in some conspicuous place within or adjacent to the farm or tenure.

Execution of decree for cancelment of a lease or for ejectment or re-instatement of a farmer or tenant.

**LXXXIV.** If the decree be for arrears of rent or for money, papers, or accounts, and the defendant have been committed to jail or appear pursuant to the conditions of any security bond given under Section LI, the Collector may order that he be detained in or committed to the Civil jail unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

In what case a judgment-debtor may be imprisoned without issue of process of execution.

**LXXXV.** If the judgment-debtor have given security for his appearance and be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety. If the decree be for the delivery of papers or accounts, and the defendant be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

Liability of surety on failure to deliver judgment-debtor into custody.

Issue of process  
of execution.

\* LXXXVI. Process of execution may be issued against either the person or the property of a judgment-debtor; but process shall not be issued simultaneously against both person and property. Process of execution against the person or moveable property of a debtor shall be in the form (E) or (F) contained in the Schedule to this Act, or to the like effect.

Execution against  
moveable property.

LXXXVII. Any moveable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but, if the creditor is unable to furnish such list, he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs. In either case the property to be seized shall be pointed out to the Officer entrusted with the execution of the process by the creditor or his agent.

How long war-  
rant shall continue  
in force.

LXXXVIII. Every warrant of execution shall bear date on the day on which it is signed by the Collector, and shall continue in force for such period as the Collector may direct, not being more than sixty days calculated from such date.

Second and suc-  
cessive warrants.

LXXXIX. Second and successive warrants of execution may be issued by order of the Collector, on the application of the judgment-creditor after the expiration of the period fixed for the continuance in force of a previous warrant.

Execution when  
not to issue on a  
judgment without  
notice to the debt-  
or.

XC. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue or the process is made, a period of more than one year shall have elapsed from the date of the judgment, or from the date of the last previous application for execution.

Execution not to  
issue against heir,  
&c., of debtor,  
without notice.

XCI. Execution on a judgment shall not issue against the heir or other representative of a deceased party, without notice to such heir or other representative to appear and be heard.

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\* Repealed by Act VI, 1862, of the Lieutenant Governor of Bengal in Council.

XCII. No process of execution of any description whatsoever shall be issued, on a judgment under this Act, after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred Rupees, in which case the period within which execution may be had shall be regulated by the general rules in force in respect to the period allowed for the execution of decrees of the Civil Courts.

No execution to be issued after three years from date of judgment.

XCIII. If a warrant issue for taking in execution the body of any person, the Officer charged with the execution of the warrant shall bring him with all convenient speed before the Collector. If such person shall not then deposit in Court the full amount specified in the warrant, or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Collector that he has no present means of paying the debt, the Collector shall send him to the Civil jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree. Provided, that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed three calendar months when the amount decreed, exclusive of costs does not exceed fifty Rupees, or six calendar months when such amount does not exceed five hundred Rupees, or two years in any other case. If the decree against any person arrested under a warrant be for the delivery of papers or accounts, and the papers or accounts shall not be delivered by him when he is brought before the Collector, such person may be committed to the Civil Jail, there to remain for such time not exceeding six calendar months as the Collector shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

Warrant against the person. Limit of imprisonment. If arrest before non-delivery of accounts.

XCIV. Any person once discharged from jail shall not be imprisoned a second time under the same judgment. If the amount due under the decree do not exceed one hundred

No person to be imprisoned a second time under same judgment.



Rupces, the Collector may declare such discharged person absolved from further liability under that decree. In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

Diet-money to be deposited at the time of issue of warrant.

XCV. Any person applying for a warrant of arrest under Section XLIX, or suing out process of execution against the body of any person, shall deposit in Court, at the time of issue of the warrant, diet-money for one month of thirty days at such rate as the Collector may direct, not exceeding two annas per diem, unless the Collector for any special reason direct that deposit be made at a higher rate, which shall not exceed four annas per diem.

Payment of diet-money in advance during imprisonment.

XCVI. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, on failure of which the party confined shall be discharged.

Diet-money to be costs in suit.

XCVII. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

List of property to be prepared, and proclamation of sale to be published, &c.

XCVIII. In executing a writ of execution against the moveable property of a debtor liable under this Act, the Officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held, together with a copy of the said list, at the intended place of sale and at the residence of the debtor. A copy of the said proclamation and list shall be transmitted to the Collector, and shall be affixed in his Office.

Custody and sale of moveable property taken in execution.

XCIX. No sale of any moveable property taken in execution shall be made, until after the end of ten days next following the day on which such property may have been so taken. Until such sale the property shall be deposited in

some fit place, or it may remain in custody of some fit person approved by the Officer executing the writ. The provisions of Sections CXXIX to CXXXIII, so far as the same are applicable, shall be applied to sales under this Section.

C. If, before the day fixed for the sale, a third party appear before the Collector and claim a right or interest in any of the moveable property taken in execution, the Collector shall examine such party or his agent on oath or affirmation, or otherwise according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing may stay the sale of such property.

Collector may stay sale of moveable property seized, if a third party claim any interest therein.

CI. The Collector shall adjudicate upon such claim, and make such order between the claimant and the plaintiff and defendant in the original suit as shall seem fit. In trying such claim the Collector shall be guided by the rules contained in this Act so far as they may be applicable.

Collector to adjudicate such claims.

CII. If the claimant shall fail to establish his right to the property taken in execution, the Collector, at the time of disposing of the case, may award to the judgment-creditor against such claimant as part of the costs, such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

Claimant failing to establish his right, liable to pay compensation to judgment creditor.

CIII. No appeal shall lie from any order passed by the Collector under the two last preceding Sections. But the party against whom the same may be given shall be at liberty to bring a suit in the Civil Court to establish his right at any time within one year from the date of the order; provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damages against the judgment-creditor by whom the property was brought to sale.

No appeal from order of Collector under the two last preceding Sections.

CIV. No irregularity in publishing or conducting a sale of moveable property under an execution shall vitiate

Sale not vitiated by irregularity in publishing or conducting it.

such sale, but this rule shall not be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Courts; provided such action be brought within one year from the date of sale.

Sale of transferable tenures in execution of decrees for arrears of rent.

CV. If the decree be for an arrear of rent due in respect of an under-tenure, which by the title-deeds or the custom of the country is transferable by sale, the judgment-creditor may make application for the sale of the tenure, and the tenure may thereupon be brought to sale in execution of the decree, according to the rules for the sale of under-tenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force. But no such application shall be received, when a warrant of execution has been previously issued against the person or moveable property of the judgment-debtor, so long as such warrant remains in force. If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, moveable or immoveable, belonging to the debtor, and any such immoveable property may be brought to sale in the manner provided in Section CX of this Act.

If third party claim to be the lawful possessor, Collector to stay the sale and adjudicate upon the claim. *Proviso.*

CVI. If, before the day fixed for the sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure, a third party appear before the Collector, and allege that such third party, and not the person against whom the decree has been obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Collector shall examine such party in the manner provided in Section C for the examination of third parties, and if he see sufficient reason for so doing, and such party shall deposit in Court the amount of the decree or give sufficient security for the same, the Collector shall stay the sale and proceed to enquire into and adjudicate upon the claim. Provided, that no transfer of an under-tenure, which by

the provisions of this Act or any other law for the time being in force is required to be registered in the Sherishteh of the Zemindar or superior tenant, shall be recognized unless it have been so registered, or unless sufficient cause for non-registration be shown to the satisfaction of the Collector.

CVII. In trying such claim the Collector shall be guided by the rules contained in this Act, so far as the same may be applicable, and the judgment passed by the Collector on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the judgment.

Mode of adjudicating such claims.

CVIII. If a decree is given in favor of a sharer in a joint undivided estate, dependent talook, or other similar tenure, for money due to him on account of his share of the rent of an under-tenure, situate in such undivided estate or talook or tenure, application for the sale of such under-tenure shall not be received, unless execution shall have been first taken out against any moveable property which the judgment-debtor may possess within the District in which the suit was instituted, and the sale of such property, if any, shall have proved insufficient to satisfy the judgment. In such case such under-tenure, if of the nature described in Section CV, may be brought to sale in execution of the decree, in the same manner as any other immoveable property may be sold in execution of a decree for money under the provisions of the two next following Sections.

Execution of decrees given in favor of sharers in undivided estates or tenures.

CIX. In the execution of any decree for the payment of money under this Act, not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person or moveable property of the debtor within the District in which the suit was instituted, the judgment-creditor may apply for execution against any immoveable property belonging to such debtor.

not be satisfied by sale of debtor's moveable property, execution may be had against the immoveable.

Mode of execution, if immoveable property house or other building; or a saleable under-tenure; or an estate or share of an estate.

CX. If the immoveable property against which execution is applied for be a house or other building, process shall be issued in the same manner as for the attachment and sale of moveable property, and the provisions of Sections XCVIII and XCIX shall be applicable to the execution of such process. If the property be a saleable under-tenure, it shall be sold under the provisions of the law for the time being in force, applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof. If the property be an estate or a share of an estate, it shall be sold under the rules in force for the sale of estates for the recovery of demands recoverable by the same process as arrears of land revenue.

Consequence of objection being offered before the sale of any immoveable property.

CXI. If, before the day fixed for the sale of any immoveable property as aforesaid, objection shall be offered to the sale on the ground of such property not belonging to the judgment-debtor, and consequently not being liable to be sold in execution of a decree against him, the Collector shall examine the party making the objection in the manner prescribed in Section C for the examination of third parties, and, if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into and adjudicate upon the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in Section CVII.

Produce of the land to be held hypothecated for the rent. Arrears of rent may be recovered by distraint under certain rules. Cultivators who have given security to be exempt from distraint. Three Provisions.

CXII. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and, when an arrear of rent as defined in Section XX of this Act is due from any cultivator of land, the zemindar, lakherajdar, farmer, dependent talookdar, under-farmer, or other person entitled to receive rent immediately from such cultivator, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due under the following rules. Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given, shall not be

liable to distraint. Provided also, that no sharer in a joint estate, dependent talook, or other tenure in which a division of lands has not been made amongst the shares, shall exercise the power of distraint otherwise than through a manager authorized to collect the rents of the whole estate, talook, or tenure, on behalf of all the sharers in the same. Provided further, that, in Putteedaree estates situated in districts under the Government of the Lieutenant-Governor of the North-Western Provinces, distraint shall be made only through a Lumberdar.

CXIII. Distraint shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable for the same land in the preceding year, unless a written engagement for the payment of such excess has been executed by the cultivator.

No distraint in certain cases.

CXIV. The power of distraint, vested by Section CXII in Zemindars and other persons entitled to receive rent from cultivators of land, may be exercised by managers under the Court of Wards, Surburakars, and Tuseeldars of estates held under khas management, and other persons lawfully entrusted with the charge of landed property; and also by the Naibs, Gomastahs, and other agents employed by any such persons as aforesaid in the collection of rent, if expressly authorized by power of attorney in that behalf. Provided that, if any illegal act is committed by any such Naib, Gomastah, or other agent under color of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act.

Power of distraint to be exercised by managers under the Court of Wards, &c. Proviso.

CXV. Standing crops and other ungathered products of the earth, and crops or other products, when reaped or gathered and deposited in any threshing floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act. But

Standing crops, and crops gathered but not stored,

no such crops or products, other than the produce of the land in respect of which an arrear of rent is due or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to be distrained under this Act.

Defaulter to be served with a written demand, &c., before or at the time of distraint.

CXVI. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made. The demand and account shall, if practicable, be served personally on the defaulter, or, if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

Distress to be proportionate to the arrear, if not paid or tendered. List of property to be distrained, to be served on owner.

CXVII. Unless the amount of the demand is immediately paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or, if he be absent, affix it at his usual place of residence.

Standing crops, &c., when attached, to be reaped and stored by the cultivator, or, if he neglect to do so, by the distrainer.

CXVIII. Standing crops and other ungathered products may, notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose. If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood. In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose. Crops or products, which from their nature do not admit of being stored, may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when the crops or products, or any part of the same, would be fit for cutting or gathering

CXIX. If a distrainer shall be opposed, or shall apprehend resistance, and shall desire to obtain the assistance of a public Officer, he may apply to the Collector, and the Collector may, if he thinks necessary, depute an Officer to support the distrainer in making the distraint.

Distrainer may apply to the Collector in case of resistance.

CXX. When any person, empowered to distrain property under Section CXII or Section CXIV, shall employ a servant or other person to make the distress, he shall give to such servant or person a written authority (which may be on plain paper) for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

Persons empowered to distrain may give written authority to their servants to do so.

CXXI. If at any time after property has been distrained, and prior to the day fixed for its being put up to sale as hereinafter provided, the owner of the property shall tender payment of the arrear demanded of him and of the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

Distress to be withdrawn, if defaulter tender payment prior to the day of sale.

CXXII. Within five days from the time of the storing of any distrained crops or products, or, if the crops or products do not from their nature admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the Civil Court Ameen, or other officer authorized to sell property in satisfaction of decrees of the Civil Court within the circle in which the distrained property is situate, or to such other public Officer as the local Government shall appoint for the purpose.

Application sale.

CXXIII. The application shall be in writing, and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due, and the date of the distress, and the place in which the distrained property is deposited. Together with the application, the distrainer shall deliver to the Civil Court Ameen or other officer the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Form of application. Cost of notice to be deposited by distrainer.



Procedure by Civil Court Ameen, &c., on receipt of application.

CXXIV. Immediately on receipt of the application the Civil Court Ameen or other officer shall transmit a copy of it to the Collector; and shall serve a notice (which shall be in the form (G) contained in the Schedule to this Act, or to the like effect) on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector within the period of fifteen days from the receipt of the notice. He shall at the same time send to the Collector for the purpose of being put up in his office, and if in the North-Western Provinces, in the cutcherry of the Tuhseeldar, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited. The proclamation shall contain a description of the property, the demand for which it is to be sold, and the place where the sale is to be held.

Ameen to suspend sale on Collector's certificate of the institution of a suit.

CXXV. If a suit shall be instituted before the Collector in pursuance of the aforesaid notice, the Collector shall transmit to the Civil Court Ameen or other officer, or, if so requested, shall deliver to the owner of the distrained property a certificate of the institution of such suit; and on such certificate being received by or presented to the Ameen or other officer, he shall suspend proceedings in regard to the sale of the distrained property.

Suit to contest distrainer's demand before issue of notice of sale.

CXXVI. A person, whose property has been distrained in the manner hereinbefore provided, may institute a suit to contest the demand of the distrainer immediately after the distraint of his property, and before the issue of notice of sale. When such suit is instituted, the Collector shall proceed in the manner prescribed in the last preceding Section. If thereafter application for the sale of the property is made to the Civil Court Ameen or other officer, he shall transmit a copy of the application to the Collector, and suspend further proceedings pending the decision of the case.

CXXVII. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with security binding himself to pay whatever sum may be adjudged to be due from him with interest and costs of suit, and, when such bond is executed, the Collector shall give to the owner of the property a certificate to that effect, or if so requested shall serve the distrainer with notice of the same ; and upon such certificate being presented to the distrainer by the owner of the property, or served on him by order of the Collector, the property shall be released from distraint.

*Distress to be withdrawn on Collector's certificate that the owner has executed a bond with security.*

CXXVIII. On the expiration of the period fixed in the proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the Civil Court Amcen or other officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary in the manner following.

*On expiry of period fixed, institution of suit not having been certified, sale may be proceeded with.*

CXXIX. The sale shall be held at the place where the distrained property is deposited, or at the nearest gunge, bazar, haut, or other place of public resort, if the Civil Court Amcen or other officer should be of opinion that it is likely to sell there to better advantage. The property shall be sold by public auction in one or more lots as the Officer holding the sale may think advisable ; and if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

*Place & manner of sale of distrained property.*

CXXX. If, on the property being put up for sale, a fair price in the estimation of the Officer holding the sale be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day, or the next market day if a market be held at the place of sale, the sale shall be postponed until such day, and shall be then completed whatever price may be offered for the property.

*If fair price be not offered, sale may be postponed to another day, but shall be then completed.*

Payment of purchase money.

CXXXI. The price of every lot shall be paid for in ready money at the time of sale, or as soon after as the Officer holding the sale shall think necessary; and in default of such payment the property shall be put up again and sold. When the purchase money has been paid in full, the Officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Proceeds of sale.

CXXXII. From the proceeds of the sale of distrained property the Officer holding the sale shall make a deduction at the rate of one Anna in the Rupee on account of the costs of the sale, and shall transmit the amount to the Collector in order that it may be credited to Government. He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in Section CXXXIV to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow. The remainder shall be applied to the discharge of the arrear for which the distraint was made with interest thereon up to the day of sale, and, if there be any overplus, it shall be delivered to the person whose property shall have been sold.

Officers holding sales prohibited from purchasing.

CXXXIII. Officers holding sales of property under this Act, and all persons employed by or subordinate to such Officers, are prohibited from purchasing either directly or indirectly any property sold by such Officers.

All irregularities to be reported to the Collector. Officer not to proceed to sale, if defaulter has not received due notice.

CXXXIV. Civil Court Ameen and other officers as aforesaid are required to bring to the notice of Collectors any material irregularities committed by distrainers under color of this Act, ; and if in any case, on proceeding to hold a sale of property, the Civil Court Ameen or other officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector, and the Collector shall direct the issue of another notice and proclamation of sale under Section CXXXIV or pass such other order as he may think proper.

CXXXV. When a Civil Court Ameen or other officer has proceeded to any place for the purpose of holding a sale, and no sale takes place either for the reason stated in the last preceding Section, or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to the Civil Court Ameen or other officer, the charge of one Anna in the Rupee on account of expenses shall be leviable and shall be calculated on the estimated value of the distrained property. If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for expenses shall be paid by the owner of the property and may be recovered by the sale of such portion thereof as may be necessary. In every other case it shall be paid by the distrainer, and may be recovered by attachment and sale of the property of the distrainer under the warrant of the Collector. Provided always, that in no case shall a larger amount than ten Rupees be recoverable under this Section.

Recovery of expenses, if Ameen proceeds to place of sale and no sale takes place.

CXXXVI All proceedings under this Act of the Civil Court Ameens and other officers as aforesaid shall be subject to the revision and orders of the Collectors, and the Collectors, with the sanction of the Boards of Revenue, may require the submission of such periodical reports and statements of business performed by the Civil Court Ameens and other officers as may be thought necessary.

Proceedings of Ameens, &c., subject to orders of Collectors.

CXXXVII When a suit has been instituted to contest the demand of a distrainer and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Collector shall issue an order to the Civil Court Ameen or other officer authorizing the sale of the property, and, on the application of the distrainer, which shall be made within five days from the receipt of such order by the Civil Court Ameen or other officer, such Ameen or officer shall publish a second proclamation in the manner prescribed in Section CXXIV, fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the

Second proclamation of sale.

proclamation; and unless the amount adjudged to be due with the costs of distress be paid immediately, shall proceed to sell the property in the manner herein before provided.

Procedure after institution of suit to contest distrainer's demand.

CXXXVIII. In all suits instituted to contest the demand of a distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself brought suit for the amount under the foregoing provisions of this Act. If the demand or any part thereof is found to be due, the Collector shall make a decree for the amount in favor of the distrainer, and the amount may be recovered by sale of the property as provided in the last preceding Section if the distress has not been withdrawn, and if any balance remain due after such sale by execution of the decree against the person and any other property of the defaulter, or if the property have been released on security by execution of the decree against the person and property of the defaulter and of his surety. If on the other hand the distraint is adjudged to be vexatious or groundless, the Collector, besides directing the release of the distrained property, may award such damages in favor of the plaintiff as the circumstances of the case shall seem to require.

Any person, whose property has been distrained for arrears from another, may sue distrainer, &c. Proviso.

CXXXIX. If any person shall claim as his own property which has been distrained for arrears of rent alleged to be due from any other person, such person may institute a suit against the distrainer and such other person, to try the right to the property, in the same manner, and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand. When any such suit is instituted, the property may be released upon security being given for the value of the same. If the claim is dismissed, the Collector shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer. If the claim is upheld, the Collector shall decree the release of the distrained property with costs, and such damages (if any) as the

circumstances of the case may seem to require. Provided always, that no claim to any produce of land liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage, or otherwise, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

CXL. If, in any case in which property has been distrained for an arrear of rent and a suit has been instituted to contest the demand, the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such other person before and up to the time of the commencement of the suit shall be enquired into, and the suit shall be decided according to the result of such enquiry. Provided always, that the decision of the Collector shall not affect the right of either party who may have a legal title to the rent of the land, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Procedure if distrainer's right to distrain be disputed.

CXLI. If any person, whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing suit to contest the demand, or to try the right to the property as the case may be, within the period allowed by Sections CXXIV and CXXXIX and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Persons prevented from suing in time to save their property from sale, may sue for damages.

CXLII. If any person empowered to distrain property, or employed for the purpose under a written authority by a

Also, persons ved by any of dis-

person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged, or destroyed by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act, to recover damages for any injury which he may have thereby sustained.

Unlawful distraint.

CXLIII. If any person not empowered to distrain property under Sections CXII and CXIV of this Act, nor employed for the purpose under a written authority by a person so empowered, shall distrain or sell or cause to be sold any property under color of this Act, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have sustained from the distraint or sale. The said person shall be held to have committed criminal trespass, and shall be subject to the penalties for that offence, in addition to any damages which may be awarded against him in such suit.

Time for commencing suits for damages.

CXLIV. Provided always, that any suit which may be instituted under any of the last three Sections shall be commenced within three months from the date of the occurrence of the cause of action.

Resistance of distraint.

CXLV. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Collector, upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested, and, if the offence be proved and the offender be the owner of the property, shall order him to be imprisoned in the Civil jail for six months, or until the whole arrear due to the distrainer with all expenses and costs shall sooner be paid or levied by distress and sale of the property

of the offender under warrant of the Collector. If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding One Hundred Rupees, or in default of payment thereof to imprisonment for a period not exceeding two months.

CXLVI. Every process issued by a Collector under this Act shall be under the seal and signature of the Collector, and shall be served or executed by the Nazir or by such other officer as the Collector may direct at the cost of the party at whose instance it issued. The amount of such cost, and, in the case of summons to a witness, any sum required for the travelling expenses of such witness, shall be deposited in Court before the process is issued. Provided that, if in any case the Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

Service of process.

CXLVII. Any resistance or opposition to the lawful process of a Collector under this Act may be punished by the Collector according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of Civil Justice. When in any such case the offender is not present in Court, the Collector may summon him to answer to the charge, and, if after due service of the summons he fail to attend, may issue a warrant for his apprehension. Orders passed by Collectors under this Section shall not be deemed to be orders relating to the trial of suits or to the execution of decrees within the meaning of Section CLI.

Resistance of process.

CXLVIII. It shall be competent to the Collector to hold a Court for hearing and determining suits under this Act in any place within the limits of his District or local jurisdiction, provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

Collector competent to hold a Court in any part of his jurisdiction.



Agents or mookhtars.

CXLIX. Any person may practice as an agent or mookhtar in a Court held by a Collector under this Act without any formal license from the Collector. But it shall be competent to the Collector to prohibit any person, who has been convicted by a competent Court of a criminal offence, or who has been found guilty of fraudulent or dishonest conduct in the discharge of his duty as agent or mookhtar, to practise as an agent or mookhtar in his Court. When any agent or mookhtar is charged by the Collector or any other person with fraudulent or dishonest conduct in the discharge of his duty, the Collector shall proceed in the manner prescribed in Section IV Act XVIII of 1852, or any other law for the time being in force for the trial of charges against pleaders.

Powers of Deputy Collectors.

CL. \* All the powers vested in the Collector by the preceding Sections of this Act may be exercised by any Deputy Collector in cases referred to him by a Collector, and in all cases without such reference, by any Deputy Collector placed in charge of any Sub-division of a District; and all applications and reports allowed or required by this Act to be made to the Collector may be made to any Deputy Collector having such local jurisdiction.

Collectors and Deputy Collectors how far to be subject to direction and control of the Commissioners and the Boards of Revenue.

CLI. In the performance of their duties under this Act the Collectors and Deputy Collectors shall be subject to the general direction and control of the Commissioners and the Boards of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Collectors to whom they are subordinate. All orders passed by a Collector under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof, or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner; and all such orders passed by a Deputy Collector shall be appealable to the Collector; but no judgment of a Collector or Deputy Collector in any suit, and no order of a Collector or Deputy Collector passed in any suit

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\* Repealed by Act VI, 1862, of the Lieutenant Governor of Bengal in Council.

and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

CLII. Every appeal against the order of a Collector shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Collector within fifteen days from the date of the order. Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, but the Board of Revenue or the Commissioner may call for any case, and pass such orders thereon as they may think proper.

Time for presenting appeals from orders.

CLIII. In suits under Clauses 2, 4, and 7 of Section XXIII and under Section XXIV of this Act tried and decided by a Collector, if the amount sued for or the value of the property claimed does not exceed One Hundred Rupees, the judgment of the Collector shall be final, and not open to revision or appeal except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a ryot or tenant, or any question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in Sections CLX and CLXI of this Act.

No appeal from any decree of Collector for money below 100 Rupees unless it involve the right to enhance rents or a title to land.

CLIV. In suits in which the judgment of the Collector is final as provided in the last preceding Section, the Collector may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of, or could not produce at the time of trial.

When Collector may grant a re-hearing upon the discovery of new

CLV. When any such suit as aforesaid, in which if tried and decided by a Collector the judgment of the Collector would be final, is tried and decided by a Deputy Collector,

Appeal from decision of Deputy Collector.

an appeal from the judgment of the Deputy Collector shall lie to the Collector.

Petition of appeal to be on stamp paper, &c.

CLVI. The petition of appeal<sup>i</sup> shall be written on stamp paper of eight annas value, and shall be presented to the Collector within fifteen days from the date of the decree, provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Procedure in appeal.

CLVII. The Collector shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons. If, on the day fixed for hearing the appeal or any other day to which the hearing may be adjourned, the appellant shall not appear in person or by an agent, the appeal shall be dismissed for default. If the appellant shall appear, and the respondent shall not appear in person or by an agent, the appeal shall be heard *ex parte*.

Re-admission of appeal.

CLVIII. If an appeal be dismissed for default of prosecution, the appellant may within fifteen days from the date of the dismissal apply to the Collector for the re-admission of the appeal, and if it shall be proved to the satisfaction of the Collector that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector may re-admit the appeal.

Judgment of appeal.

CLIX. After hearing the appeal the Collector shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Collector shall be final.

In what suits appeal to lie to Zillah Judge. To Sudder Court.

CLX. In all suits other than those in which, when tried and decided by a Collector the judgment of the Collector is declared to be final, or when tried and decided by a Deputy Collector an appeal is allowed to the Collector, an appeal from the judgment of the Collector or Deputy Collector shall lie to the Zillah Judge; unless the amount or value in dispute exceed five thousand Rupees, in which case the appeal shall lie to the Sudder Court.

CLXI. The petition of appeal shall be written on the stamp paper prescribed for appeals from the subordinate Civil Courts with reference to the amount or value of the property involved in the appeal, and the rules in force in regard to the time within which appeals from the decisions of such Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the Zillah Judge or Sudder Court under this Act.

Presentation and hearing of appeals.

CLXII. \* Suits under this Act shall be preferred in the Revenue Office of the District, or when a Sub-division of a District has been placed under the jurisdiction of a Deputy Collector, in the Revenue Office of the Sub-division in which the cause of action shall have arisen. Provided always, that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector. If the lands comprised in any talook, farm, or other tenure, or any lands held under one lease or engagement or at one entire rent in respect of which arrears of rent may be due, are situated in more than one District or Sub-division, the District or Sub-division in which the greater part of such lands is situate shall be held to be the District or Sub-division in which the cause of action has arisen; and if any question shall be raised respecting the District or Sub-division in which the greater part of the lands is situate, the Board of Revenue, or, if all the lands be situate in one District, the Collector of the District shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

Suits to be preferred in the Revenue Office of the District or Sub-division in which the greater part of the lands is situate.

CLXIII. Except as provided in the last preceding Section, no Collector shall exercise any jurisdiction under this Act in respect to any lands situate beyond the limits of the District to which he is appointed, by reason of such lands forming part of an estate the revenue of which is paid into the Treasury of the said District.

Except as above, Collector not to exercise jurisdiction as to lands situate beyond his District.

\* Repealed by Act VI, 1862, of the Lieutenant Governor of Bengal in Council.

Deputy Collector entrusted with Police functions, not to exercise judicial powers under this Act.

What powers to be exercised by Assistants to Collectors.

Saving of rights of proprietors in respect of Putnee Talooks, &c., under Regulation 1819.

Commencement of Act.

"Civil Jail," "Nazir," Number, Gender.

CLXIV. No Deputy Collector appointed under Regulation IX. 1833 of the Bengal Code shall exercise any judicial powers or other jurisdiction under this Act, if entrusted with any Police functions.

CLXV. Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors.

CLXVI. Nothing contained in this Act shall be held to affect the right vested in proprietors of land under direct engagements with Government, of bringing to sale for arrears of rent Putnee Talooks and other similar tenures under the provisions of Regulation VIII. 1819.

CLXVII. This Act shall commence and have effect from and after the 1st day of August 1859.

CLXVIII. The words "Civil Jail" as used in this Act shall include the Civil Jail of the Zillah, and any place appointed by the Executive Government for the confinement of prisoners by any Court constituted under this Act. The word "Nazir" shall include any officer of a Court authorized to serve or execute its process. Unless there be some thing in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing the masculine gender shall include females.

## SCHEDULE.

FORM A. (See Section 44.)

FORM OF SUMMONS TO DEFENDANT.

No.

(of suit) dated

In the Court of

A. B., Plaintiff.

[Name, description, and address of plaintiff.]

C. D. Defendant.

[Name, description, and address of defendant.]

Whereas the said A. B. has brought a claim against you in this Court for (*here specify particulars of claim as given in the statement,*)

you are hereby required to appear in person in this Court on the day of \_\_\_\_\_ [if not specially required to appear in person, state, "in person or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge"] to answer the above-named plaintiff, and you will bring with you (or send by your agent) [here mention any document the production of which may be required by the plaintiff] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

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FORM B. (see Section 49.)

FORM OF WARRANT OF ARREST.

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No. \_\_\_\_\_ (of suit) dated \_\_\_\_\_  
In the Court of \_\_\_\_\_

A. B., Plaintiff.

C. D., Defendant.

To the Nazir of the Court of the Collector of \_\_\_\_\_

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the \_\_\_\_\_ day of \_\_\_\_\_ to be dealt with according to law.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 185 \_\_\_\_\_

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FORM C. (see Section 49.)

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

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In the Court of \_\_\_\_\_

A. B., Plaintiff.

[Name, description, and address of plaintiff]

C. D., Defendant.

[Name, description, and address of defendant.]

Whereas the said A. B. has brought a claim against you in this Court for (here specify particulars of claim as given in the statement) and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

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FORM D. (*see Section 51.*)

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

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Whereas A. B., plaintiff, has instituted a suit in the Court of the Collector of \_\_\_\_\_ against C. D., defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I, E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such appearance, I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. If the suit be for the delivery of papers or accounts specify some sum to be fixed by the Collector.

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FORM E. (*see Section 86.*)

WRIT OF EXECUTION AGAINST THE PERSON.

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A. B., Plaintiff.

C. D. Defendant.

To the Nazir of the Court of the Collector of \_\_\_\_\_

Whereas the said C. D. was directed by a decree of this Court under date the \_\_\_\_\_ day of \_\_\_\_\_ 185\_\_\_\_, to pay to A. B. the sum of \_\_\_\_\_ and \_\_\_\_\_ for costs of suit amounting to \_\_\_\_\_, and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D. and to bring him with all convenient speed before this Court to be dealt with according to law.

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FORM F. (*see Section 86.*)

WRIT OF EXECUTION AGAINST THE EFFECTS.

A. B., Plaintiff.

C. D., Defendant.

To the Nazir of the Court of the Collector of \_\_\_\_\_

Whereas C. D. was directed by a decree of this Court under date the \_\_\_\_\_ day of \_\_\_\_\_ 185\_\_\_\_, to pay to A. B. the sum of \_\_\_\_\_ and \_\_\_\_\_ for costs of suit, amounting to \_\_\_\_\_, and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of \_\_\_\_\_, and the sum of \_\_\_\_\_ for costs of executing this process, by seizure and sale of such moveable property of

the said C. D. as (is described in the list annexed, and) [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D., on some convenient day, not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

#### FORM G (See Section 124)

##### FORM OF NOTICE TO OWNER OF DISTRAINED PROPERTY

Office                      Commissioner for sale of distrained property.

A. B., Distrainer.

[*Name, description, and address of the owner of the property*]

Whereas the said A. B. has applied to have the distrained property specified below sold for the recovery of                      alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said A. B. or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this                      185

No. XI. OF 1859

BENGAL.  
L. P.

(Received the assent of the Governor General on the 14th May 1859)

#### SALES OF LAND FOR ARREARS OF REVENUE (BENGAL) ACT.

##### ARRANGEMENT OF SECTIONS.

1. *Laws repealed.*
2. *What is an arrear of revenue.*
3. *Latest day of payment.*
4. *In Sylhet, personal property may in the first instance be distrained, &c.*
5. *Proviso in the case of certain descriptions of arrears.*
6. *Notifications of sale to be issued, and no tender after latest day of payment to stop the sale.*
7. *Notice to ryots, &c.*
8. *Claims held by a defaulter not to invalidate a sale.*
9. *Deposits receivable from persons not proprietors.*



10. *Separation of shares held in common, by the opening of a separate account.*
11. *Separation of shares consisting of specific portions of land.*
12. *If objection be made, parties to, be referred to the Civil Court.*
13. *Sale of separate shares.*
14. *Entire estate of share may be sold under certain conditions.*
15. *Deposit for the protection of any estate from sale.*
16. *Withdrawal of the deposit.*
17. *Estates under Court of Wards or under attachment.*
18. *Estates may be specially exempted from sale. Proviso.*
19. *Sales where to be made.*
20. *Adjournment of sales.*
21. *Order of selling.*
22. *Deposit on account of purchase money.*
23. *Full payment of purchase money.*
24. *Re-sale.*
25. *Appeals.*
26. *Annulment of sale in special cases.*
27. *Sales when final.*
28. *Certificate of sales.*
29. *Delivery of possession.*
30. *Liability of purchaser.*
31. *Application of purchase money.*
32. *Notification of annulment of sale.*
33. *Jurisdiction of Civil Courts in suits to annul sales. Proviso.*
34. *Effects of annulment by decree of Court of sales under this Act.*
35. *If sale annulled, purchase money to be refunded.*
36. *Suit brought to oust a purchaser on the ground that the purchase was made for another person, to be dismissed.*
37. *Rights of a purchaser of a settled estate sold for its own arrears. Proviso.*
38. *Registration of talookdaree tenures created after settlement, and held for terms of years.*
39. *Common and special registry.*
40. *Application for registry.*
41. *Procedure on application for common registry.*
42. *Procedure on application for special registry.*
43. *Registration of leases of certain lands.*
44. *Registration of old tenures. Proviso.*
45. *Expenses of measurement, survey, or local enquiry.*
47. *Civil Court not competent to order entry in the special register.*
48. *Suit for the cancelment of the registry of a tenure or farm.*

49. *Proceedings of Revenue Authorities in the registration of tenures, &c.*

50. *Effect of entry in the special register.*

51. *Protection of talukdaree tenures pending enquiry, in case of sale of parent estate for arrears of revenue.*

52. *Rights of a purchaser of an estate not permanently settled sold for its own arrears.*

53. *Rights of a purchaser, being a sharer in any estate. And of a purchaser of an estate, not sold for its own arrears.*

54. *Rights of purchasers of shares of estate.* . . . . .

55. *Recovery of arrears due to defaulters.* . . . . .

56. *Punishment for contempt.*

57. *Default in making deposit to be considered a contempt.*

58. *Government may purchase at a sale.* . . . . .

60. *Regulations VII. 1812 and IX. 1825 to be in force in certain estates* . . . . .

61. *Interpretation.* . . . . .

62. *Application and commencement of this Act.*

An Act to improve the law relating to sales of Land for arrears of Revenue in the Lower Provinces under the Bengal Presidency.

WHEREAS it is expedient to discontinue the practice of obtaining the previous sanction of the Board of Revenue to sales of estates for arrears of revenue, or other demands of Government, in the province of Cuttack ; and whereas it is just that a person having a lien upon an estate, and paying the money necessary to protect it from sale for arrears of revenue, should be reasonably secured : and whereas it is expedient to afford sharers in estates, who duly pay their shares of the Sudder jumma of their estates, easy means of protecting their shares from sale by reason of the default of their co-sharers : and whereas it is expedient to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents : and whereas it is expedient to provide for the voluntary registration of dependent talooks existing at the time of settlement : and whereas it is expedient to protect the holders of registered under-tenures created since the settlement, and not resumable by the grantors or their representatives, from loss by the avoidance of

their tenures on the occasion of a sale of the superior estate for arrears of public revenue, when the arrears can be realized by such sale : and to give absolute security to such tenures by special registry, when shown to be held at rents sufficient for the security of the revenue : and it is therefore proper, for the above and other purposes, to improve the law relating to sales of land for arrears of revenue in the Provinces of Bengal, Behar, and Orissa : It is enacted as follows :—

Laws repealed.

I. Regulation X. 1818 (*relating to collection of the public revenue from proprietors and farmers of land in the District of Cuttack, &c*) is hereby repealed : and from the date of the passing of this law, Act I of 1845 (*regarding sales of land for arrears of revenue*) except in so far as it repeals other laws, and except in regard to sales made or advertised, to arrears and other demands realizable, and to suits commenced and acts done, under authority thereof—shall cease to have effect in the Lower Provinces of Bengal.

What is an arrear of revenue.

II. If the whole or a portion of a kist or instalment of any month of the era, according to which the settlement and kistbundee of any mahal have been regulated, be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.

Latest day of payment.

III. Upon the promulgation of this Act, the Board of Revenue at Calcutta shall determine upon what dates all arrears of revenue and all demands which, by the Regulations and Acts in force, are directed to be realized in the same manner as arrears of revenue, shall be paid up in each District under their jurisdiction, in default of which payment the estates in arrear in those districts, except as hereinafter provided, shall be sold at public auction to the highest bidder. And the said Board shall give notice of the dates so fixed in the official Gazette, and shall direct corresponding publication to be made, as far as regards each district in the language of that district, in the office of the Collector or other Officer duly authorized to hold sales under this Act, in the Courts of the Judge, Magistrate, (or Joint Magistrate, as

the case may be,) and Moonsiffs, and at every Thannah station of that district; and the dates so fixed shall not be changed except by the said Board by advertisement and notification, in the manner above described, to be issued at least three months before the close of the official year preceding that in which the new date is, or dates are, to take effect.

IV. Provided that, in the district of Sylhet, the Collector may be authorized by the Board of Revenue to proceed in the first instance by the distress and sale of the personal property of defaulters, instead of by the sale of their estates.

In Sylhet, personal property of defaulters may in the first instance be distrained and sold.

V. Provided always, that no estate, and no share or interest in any estate, shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification in the language of the district, specifying the nature and amount of the arrear or demand and the latest date on which payment thereof shall be received, shall have been affixed for a period of not less than fifteen clear days preceding the date fixed for payment according to Section III of this Act, in the office of the Collector or other Officer duly authorized to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land advertised lies, and in the Moonsiff's Court and Police Thannah of the division in which the estate or share of an estate to which the notification relates, is situated; or if the estate or share of an estate be situated within the jurisdiction of more than one Moonsiff's Court or Police Thannah, in some one or more of such Courts or Thannahs; and also at the cutcherry of the malgoozar or owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, the same to be certified by the peon or other person employed for the purpose.

Proviso in the case of certain descriptions of arrears.

*First.* Arrears other than those of the current year, or of the year immediately preceding.

*Secondly* Arrears due on account of estates other than that to be sold.

*Thirdly.* Arrears of estates under attachment by order of any judicial authority, or managed by the Collector in accordance with such order.

*Fourthly.* Arrears due on account of tuccavee, pool-bundee, or other demands not being land revenue, but recoverable by the same process as arrears of land revenue.

Notifications of sale to be issued, and no tender after latest day of payment to stop the sale.

VI. The Collector or other Officer duly authorized to hold sales under this Act shall, as soon as possible after the latest day of payment fixed in the manner prescribed in Section III of this Act, issue notifications in the language of the district, to be affixed in his own Office and in the Court of the Judge of the district, specifying the estates or shares of estates which will be sold as aforesaid, and the day on which the sale of the same will commence, which day shall not be less than fifteen or more than thirty clear days from the date of affixing the notification in the office of the Collector or other Officer as aforesaid. And if the Government revenue of any estate or share of an estate to be sold exceed the sum of Five Hundred Rupees, a notification of the sale of such estate or share of an estate shall be published in the official Gazette. Except as hereinafter provided, all estates or shares of estates so specified shall, on the day notified for sale, or on the day or days following, be put up to public auction by and in the presence of the Collector or other Officer as aforesaid, and shall be sold to the highest bidder. And no payment, or tender of payment, made after sunset of the said latest day of payment, shall bar or interfere with the sale, either at the time of sale or after its conclusion.

Notice to ryots, &c.

VII. Whenever an estate or share of an estate is notified for sale as provided by Section VI of this Act, the Collector or other Officer as aforesaid shall affix a proclamation in the language of the district, in his own Office, and as soon thereafter as may be in the Moonsiffs' Courts and Police Thannahs within which the estate or share of an estate, or any part of it, is situated, and also at the cutcherry of the malgoozar or the owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an

estate, forbidding the ryots and under-tenants to pay to the defaulting proprietor any rent which has fallen due after the day fixed for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums so paid.

VIII. No claim to abatement or remission of revenue, unless the same shall have been allowed by the authority of Government, and no private demand or cause of action, whatever, held or supposed to be held by any defaulter against Government, shall bar or render void or voidable a sale under this Act; nor shall the plea that money belonging to the defaulter, and sufficient to pay the arrear of revenue due, was in the Collector's hands, bar or render void or voidable a sale under this Act, unless such money stand in the defaulter's name alone and without dispute, and unless, after application in due time made by the defaulter, or after the written agreement provided for in Section XV of this Act, the Collector shall have neglected, or refused on insufficient grounds, to transfer it in payment of the arrear of revenue due.

Claims against Government held by a defaulter not to invalidate a sale.

IX. The Collector or other Officer as aforesaid shall, at any time before sunset of the latest day of payment determined according to Section III of this Act, receive as a deposit from any person not being a proprietor of the estate or share of an estate in arrear, the amount of the arrear of revenue due, to be credited in payment of the arrear at sunset as aforesaid, unless before that time the arrear shall have been paid by a defaulting proprietor of the estate. And in case the person so depositing, whose money shall have been credited in the manner aforesaid, shall be a party in a suit pending before a Court of Justice for the possession of the estate or share from which the arrear is due, or any part thereof, it shall be competent to the said Court to order the said party to be put into temporary possession of the said estate or share, or part thereof, subject to the rules in force for taking security in the cases of parties in Civil suits. And if the person so depositing, whose money shall have been credited as aforesaid, shall prove before a competent

Deposits receivable from persons not proprietors.

Civil Court that the deposit was made in order to protect an interest of the said person, which would have been endangered or damaged by the sale, or which he believed in good faith would have been endangered or damaged by the sale, he shall be entitled to recover the amount of the deposit, with or without interest as the Court may determine, from the defaulting proprietor. And if the party so depositing, whose money shall have been credited as aforesaid, shall prove before such a Court that the deposit was necessary in order to protect any lien he had on the estate or share or part thereof, the amount so credited shall be added to the amount of the original lien.

Separation of shares held in common, by the opening of a separate account.

X. When a recorded sharer of a joint estate, held in common tenancy, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the share held in the estate by the applicant. The Collector shall then cause to be published in his own Office, in the Court of the Judge, Magistrate (or Joint Magistrate, as the case may be,) and Moonsiffs, and in the Police Thannahs in whose jurisdiction the estate or any part thereof is situated, as well as on some conspicuous part of the estate itself, a copy of the application made to him. If, within six weeks from the date of the publication of these notices, no objection is made by any other recorded sharer, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

Separation of shares consisting of specific portions of land, by the opening of a separate account.

XI. When a recorded sharer of a joint estate, whose share consists of a specific portion of the land of the estate, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the land comprised in his share, and of the boundaries

and extent thereof, together with a statement of the amount of sudder jumma heretofore paid on account of it. On the receipt of this application, the Collector shall cause it to be published in the manner prescribed for publication of notice in the last preceding Section. In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

XII. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him, or, if the application be in respect of a specific portion of the land of an estate, that the amount of sudder jumma stated by the applicant to have been heretofore paid on account of such portion of land, is not the amount which has been recognized by the other sharers as the jumma thereof, the Collector shall refer the parties to the Civil Court, and shall suspend proceedings until the question at issue is judicially determined.

If objection be made, parties to be referred to the Civil Court.

XIII. Whenever the Collector shall have ordered a separate account or accounts to be kept for one or more shares, if the estate shall become liable to sale for arrears of revenue, the Collector or other Officer as aforesaid in the first place shall put up to sale only that share or those shares of the estate from which, according to the separate accounts, an arrear of revenue may be due. In all such cases notice of the intention of excluding the share or shares from which no arrear is due, shall be given in the advertisement of sale prescribed in Section VI of this Act. The share or shares sold, together with the share or shares excluded from the sale, shall continue to constitute one integral

Sale of separate shares.



estate, the share or shares sold being charged with the separate portion, or the aggregate of the several separate portions, of jumma assigned thereto.

Entire estate  
may be sold under  
certain conditions.

XIV. If in any case of a sale held according to the provisions of the last preceding Section, the highest offer for the share exposed to sale shall not equal the amount of arrear due thereupon to the date of sale, the Collector or other Officer as aforesaid shall stop the sale, and shall declare that the entire estate will be put up to sale for arrears of revenue at a future date, unless the other recorded sharer or sharers, or one or more of them, shall within ten days purchase the share in arrear by paying to Government the whole arrear due from such share. If such purchase be completed, the Collector or other Officer as aforesaid shall give such certificate and delivery of possession as are provided for in Sections XXVIII and XXIX of this Act; to the purchaser or purchasers, who shall have the same rights as if the share had been purchased by him or them at the sale. If no such purchase be made within ten days as aforesaid, the entire estate shall be sold, after notification for such period and publication in such manner as is prescribed in Section VI of this Act.

Deposit for the  
protection of an  
estate from sale.

XV. If any recorded proprietor or co-partner of an estate shall deposit with the Collector money, or Government securities endorsed and made payable to the order of the Collector, and shall sign an agreement pledging the same to Government by way of security for the jumma of the entire estate and authorizing the Collector to apply to the payment of any arrear of revenue that may become due from that estate the whole or any portion of the said money or securities that may be necessary for that purpose, then, in the case of any arrear of revenue due from the said estate not being paid before sunset of the latest day of payment fixed under Section III of this Act, the Collector shall apply to the payment of such arrear the said money or securities, or such part thereof or of any interest due on the said securities as may be necessary; and for this purpose the Collector shall

first apply any money that may be in his hands and any interest ~~that~~ may be due upon such securities, and may then sell and transfer the securities for any balance that may remain. And so long as any money or securities as aforesaid, sufficient to cover any arrear that may fall due, shall remain and be available as aforesaid, the estate for the protection of which the said deposit was made shall be exempted from sale for arrears of revenue. All monies and securities so deposited shall be exempt from attachment otherwise than in execution of a decree of a Civil Court.

XVI. It shall be competent to the person making a deposit under the provision of the last preceding Section, or his representative or assignee, at any time to withdraw the deposit and to revoke the pledge of the same.

Withdrawal of  
the deposit.

XVII. No estate shall be liable to sale for the recovery of arrears which have accrued during the period of its being under the management of the Court of Wards; and no estate the sole property of a minor or minors, and descended to him or them by the regular course of inheritance duly notified to the Collector for the information of the Court of Wards, but of which the Court of Wards has not assumed the management under Regulation VI. 1822, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until the minor or minors, or one of them, shall have attained the full age of eighteen years. And no estate, held under attachment by the revenue authorities otherwise than by order of a judicial authority, shall be liable to sale for arrears accruing whilst it was so held under attachment. And no estate, held under attachment or managed by a Revenue Officer in pursuance of an order of a judicial authority, shall be liable to sale for the recovery of arrears of revenue accruing during the period of such attachment or management, until after the end of the year in which such arrears accrued.

Estates under  
Court of Wards or  
under attachment.

XVIII. It shall be competent to the Collector or other Officer as aforesaid, at any time before the sale of an estate

Estates may be  
specially exempt  
from sale. Provis

or share of an estate shall have commenced, to exempt such estate or share from sale; and in like manner it shall be competent to the Commissioner of Revenue, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale, by a special order to the Collector or other Officer as aforesaid to that effect in each case; and no such sale shall be legal, if held after the receipt of such order of exemption. Provided, however, and it is hereby enacted, that the Collector or other Officer as aforesaid or the Commissioner shall duly record in a proceeding the reason for granting such exemption; and provided also, that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken place before the receipt by the Collector or other Officer as aforesaid of the order of exemption.

Sales where to be made.

XIX. Sales shall ordinarily be made by the Collector or other Officer as aforesaid in the land revenue Office at the Sudder Station of the District: provided, however, that it shall be competent to the Board of Revenue to prescribe a place for holding sales other than such Office whenever they shall consider it beneficial to the parties concerned.

Adjournment of sales.

XX. In case the Collector or other Officer as aforesaid shall be unable from sickness, from the occurrence of a holiday, or from any other cause, to commence the sale on the day of sale fixed as aforesaid; or if, having commenced it, he be unable, from any cause, to complete it; he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the Commissioner of Revenue, and announcing the adjournment by a written proclamation stuck up in his cutcherry; and so on, from day to day, until he shall be able to commence upon, or to complete the sale; but, with the exception of adjournments so made, recorded, and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

XXI. On the day of sale fixed according to Section VI of this Act sale shall proceed in regular order; the estate to be sold bearing the lowest number on the towjee or register in use in the Collector's Office of the district being put up first, and so on, in regular sequence; and it shall not be lawful for the Collector or other Officer as aforesaid to put up any estate out of its regular order by number, except where it may be necessary to do so on default of deposit, as provided in Section XXII of this Act.

Order of selling.

XXII. The party who shall be declared the purchaser of an estate or share of an estate, at any such public sale as aforesaid, shall be required to deposit immediately or as soon after the conclusion of the sale of the estate or share as the Collector or other Officer as aforesaid may think necessary, either in cash, Bank of Bengal Notes, or Post Bills or Government Securities to be valued at the market rate of the day, duly endorsed, twenty-five per cent. on the amount of his bid; and in default of such deposit, the estate or share shall forthwith be put up again and sold.

Deposit on account of purchase money.

XXIII. The full amount of purchase money shall be made good by the purchaser before sunset of the thirtieth day from that on which the sale of the estate or share of an estate bought by him took place, reckoning that day as one of the thirty; or if the thirtieth day be a Sunday or other close holiday, then on the first office day after the thirtieth: and in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to Government, the estate or share shall be resold, and the defaulting purchaser shall forfeit all claim to the estate or share, or to any part of the sum for which it may subsequently be sold. And, in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorized for realizing an arrear of public revenue, and such difference shall be taken and considered to be a part of the purchase money and shall be

Full payment of purchase money.

dealt with in the manner hereinafter prescribed for the disposal thereof. .

**Re-sale.**

XXIV. When default is made in the payment of purchase money a notification of the intended re-sale shall be published for the period and in the manner prescribed in Section VI of this Act, but such notification shall not be published until the expiration of three clear days after the day on which the default shall have occurred; and if the payment or tender of payment of the arrear on account of which the estate or share was first sold, and of any arrear which may have subsequently become due shall be made by or on behalf of the proprietor of the estate or share before sunset of the third day, the issue of the notification of re-sale shall be stayed. The rules contained in the last preceding Section shall be applicable to every such re-sale. Provided that, if default of payment of purchase money shall occur more than once, the amount to be recovered from the defaulting bidders shall be the difference between the highest bid and the proceeds of the sale eventually consummated, which amount may be levied in manner aforesaid from any of the defaulting bidders to the extent of the amount by which his bid exceeds the amount realized.

**Appeals**

XXV. It shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act, if preferred to him on or before the fifteenth day from the date of sale, reckoning as in Section XXIII, or if preferred to the Collector or other Officer as aforesaid for transmission to the Commissioner, on or before the tenth day from the day of sale, and not otherwise; and the Commissioner shall be competent in every case of appeal so preferred, to annul any sale of an estate or share of an estate made under this Act, which shall appear to him not to have been conducted according to the provisions of this Act, awarding at the same time to the purchaser a payment from the proprietor of any moderate compensation for his loss, if the sale shall have been occasioned by neglect of the proprietor, such

compensation not to exceed the interest, at the highest rate of the current Government Securities, on the amount of deposit or balance of purchase money during the period of its being retained in the Collector's Office ; and the order of the Commissioner shall in such cases be final.

XXVI. It shall be competent to the Commissioner of Revenue, on the ground of hardship or injustice, to suspend the passing of final orders in any case of appeal from a sale, and to represent the case to the Board of Revenue, who, if they see cause, may recommend to the local Government to annul the sale ; and the local Government in any such case may annul the sale and cause the estate or share of an estate to be restored to the proprietor on such conditions as may appear equitable and proper.

Annulment of  
sale in special  
cases.

XXVII. All sales of which the purchase money has been paid up as prescribed in Section XXIII of this Act, and against which no appeal shall have been preferred, shall be final and conclusive at noon of the thirtieth day from the day of sale, reckoning the said day of sale as the first of the said thirty days. And sales, against which an appeal may have been preferred and dismissed by the Commissioner, shall be final and conclusive from the date of such dismissal if more than thirty days from the day of sale, or if less, then at noon of the thirtieth day as above provided.

Sales when final.

XXVIII. Immediately upon a sale becoming final and conclusive, the Collector or other Officer as aforesaid shall give to the purchaser a certificate of title in the form prescribed in Schedule A annexed to this Act. And the said certificate shall be deemed in any Court of Justice sufficient evidence of the title to the estate or share of an estate sold being vested in the person or persons named from the date specified ; and the Collector shall also notify such transfer by written proclamation in his own Office, and in the Courts of the Moonsiffs and Police Thannahs within whose jurisdictions any part of the estate or share sold shall be situated.

Certificate of  
sales.

XXIX. The Collector or other Officer as aforesaid shall order delivery of possession of the estate or share purchased

Delivery of pos-  
session.

to be made by removing any person who may refuse to vacate the same, and by proclamation to the occupants of the property by beat of drum or in such other mode as may be customary, at some convenient place or places; and by affixing a copy of the certificate at the Mal cutchery or in some conspicuous place of the estate or share of an estate purchased.

Liability of purchaser.

XXX. The party certified as the proprietor of an estate or share of an estate by purchase under this Act, shall be answerable for all instalments of the revenue of Government which may fall due after the latest day of payment aforesaid.

Application of purchase money.

XXXI. The Collector shall apply the purchase money first to the liquidation of all arrears due upon the latest day of payment from the estate or share of an estate sold; and secondly to the liquidation of all outstanding demands debited to the estate or share of an estate in the public accounts of the District; holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate or share of an estate sold, or their heirs or representatives, to be paid to his or their receipt on demand in the manner following; to wit, in shares proportioned to their recorded interest in the estate or share of an estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt. And if, before payment to the late proprietor or proprietors of any surplus that may remain of the purchase money, the same be claimed by any creditor in satisfaction of a debt, such surplus shall not be payable to such claimant, nor shall it be withheld from the proprietor, except under precept of a Civil Court.

Notification of annulment of sale.

XXXII. The annulment by a Commissioner or by Government of a sale made under this Act shall be publicly notified by the Collector or other Officer as aforesaid, in the same manner as the becoming final and conclusive of sales is required to be notified by Section XXVIII of this Act; and the amount of deposit and balance of purchase money shall be forthwith returned to the purchaser with interest

thereon at the highest rates of the current Public Securities ; which shall be paid by the Government, unless the proprietor shall have become liable for the same under the provisions of Section XXV or Section XXVI of this Act.

XXXIII. No sale for arrears of revenue or other demands realizable in the same manner as arrears of revenue are realizable, made after the passing of this Act, shall be annulled by a Court of Justice, except upon the ground of its having been made contrary to the provisions of this Act ; and then only on proof that the plaintiff has sustained substantial injury by reason of the irregularity complained of : and no such sale shall be annulled upon such ground, unless such ground shall have been declared and specified in an appeal made to the Commissioner under Section XXV of this Act : and no suit to annul a sale made under this Act shall be received by any Court of Justice, unless it shall be instituted within one year from the date of the sale becoming final and conclusive as provided in Section XXVII of this Act : and no person shall be entitled to contest the legality of a sale, after having received any portion of the purchase money. Provided, however, that nothing in this Act contained shall be construed to debar any person, considering himself wronged by any act or omission connected with a sale under this Act, from his remedy in a personal action for damages against the person by whose act or omission he considers himself to have been wronged.

Jurisdiction of  
Civil Courts in  
suits to annul  
sales. Proviso.

XXXIV. If a sale made under this Act be annulled by a final decree of a Civil Court, application for the execution of such decree shall be made within six months after the date thereof ; otherwise the party in whose favor such decree was passed shall lose all benefit therefrom. And no order for restoring such decree-holder to possession shall be passed, until any amount of surplus purchase money that may have been paid away by order of a Civil Court be repaid by him, with interest at the highest rate of the current Government Securities. • And if such party shall neglect to pay any amount so recoverable, within six months from the

Effects of annul-  
ment by decree of  
Court of sales  
under this Act.



date of such final decree, he shall lose all benefit therefrom.

If sale annulled,  
purchase money to  
be refunded.

XXXV. In the event of a sale being annulled by a final decree of a Court of Justice, and the former proprietor being restored to possession, the purchase money shall be refunded to the purchaser by Government, together with interest at the highest rate of the current Public Securities.

Suit brought to  
oust a purchaser  
on the ground that  
the purchase was  
made for another  
person, to be dis-  
missed.

XXXVI. Any suit brought to oust the certified purchaser as aforesaid on the ground that the purchase was made on behalf of another person not the certified purchaser, or on behalf partly of himself and partly of another person, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Rights of a pur-  
chaser of a perma-  
nently settled  
estate sold for its  
own arrears. Pro-  
viso.

XXXVII. The purchaser of an entire estate in the permanently settled districts of Bengal, Behar, and Orissa, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement; and shall be entitled to avoid and annul all under-tenures and forthwith to eject all under-tenants, with the following exceptions:

*First.* Istemrarae or mokurrerae tenures which have been held at a fixed rent from the time of the permanent settlement.

*Secondly.* Tenures existing at the time of settlement which have not been held at a fixed rent. Provided always, that the rents of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures.

*Thirdly.* Talookdarae and other similar tenures created since the time of settlement and held immediately of the proprietors of estates, and farms for terms of years so held, when such tenures and farms have been duly registered under the provisions of this Act.

*Fourthly.* Leases of lands whereon dwelling houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places

of worship, or burning or burying grounds have been made, or wherein mines have been sunk.

And such a purchaser as is aforesaid shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, and if the same shall not have been held at a fixed rent, equal to the rent of good arable land; for a term exceeding twelve years; but not otherwise.

Provided always, that nothing in this Section contained shall be construed to entitle any such purchaser as aforesaid to eject any ryot, having a right of occupancy at a fixed rent or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such ryot otherwise than in the manner prescribed by such laws, or otherwise than the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do.

XXXVIII. The following rules for the registration of talookdaree and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates, and of farms for terms of years so held, shall be observed.

Registration  
of talookdaree  
tenures created  
after settlement  
and held for terms  
of years.

XXXIX. There shall be two sets of registers, one for common registry and one for special registry. Common registry shall secure such tenures and farms against any auction purchaser at a sale for arrears of revenue except the Government. Special registry shall secure such tenures and farms against any auction purchaser at a sale for arrears of revenue including the Government.

Common and  
special registry.

XL.\* The holder of any talookdaree or other similar tenure, such as is described in Section XXXVIII of this Act, desirous of registering it, shall apply by petition to the Col-

Application for  
registry.

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\* See Act III, 1862, Sec. 2 of the Lieutenant Governor of Bengal in Council.

lector of the District to which the estate belongs. The application shall state which description of registry is desired, and shall contain the following particulars so far as the same are ascertainable:—

1. The Pergunnah or Pergunnahs in which the tenure is situated.
2. The nature of the tenure.
3. The name or names of the village or villages whereof the land is composed, or wherein it is situated.
4. The area of the land comprised in the tenure, with its boundaries in complete detail.
5. The amount of rent payable annually for the tenure, and whether the rent is fixed for a term of years or in perpetuity, and the duties, if any, required to be performed on account of it.
6. The date of the deed constituting the tenure, or the date when the tenure was created.
7. The name of the proprietor who created the tenure.
8. The name of the original holder of the tenure.
9. The name of the present possessor, and if he be not the original holder, the mode in which he succeeded to the tenure, whether by inheritance, gift, purchase, or otherwise, and whether he holds jointly or solely.

Holders of such farms as are described in the said Section may apply in like manner for registry of the same. The application shall contain such of the foregoing particulars as are applicable to farms.

Procedure on application for common registry.

XLI. When the application is for common registry, the Collector shall serve a notice on the recorded proprietor or proprietors of the estate in which the tenure or farm is situated, or the authorized agent of such proprietor or proprietors, with a copy of the application annexed; and shall cause a notice, with a copy of the application annexed, to be affixed in his Office, and at the Mal Cutcherry of the estate in which the tenure or farm is situated, or in such other place or places as in the opinion of the Collector may be best suited to give publicity to the application, requiring the proprietor

or any party interested, within thirty days from the issue of the said notice, to file any objections he may have to the registry of the tenure or farm, or to any statement contained in the application. If within the limited time no objection is made, the Collector shall register the tenure or farm. If within the limited time an objection is made by any recorded proprietor, or by any party interested not being a proprietor, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, the Collector shall suspend proceedings, and shall refer the parties to the Civil Court; otherwise he shall grant the application. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall register the tenure or farm. .

XLII. When the application is for special registry, the Collector shall serve and issue the notices prescribed in the last preceding Section. If within the limited time no objection is made, the Collector shall cause any enquiry that he may deem necessary for the security of the Government revenue, to be made; and if he is satisfied that the Government revenue of the parent estate is sufficiently secured so far as it may be affected by the tenure or farm in question, he shall report the case to the Commissioner, who, if also satisfied on that point, shall direct the tenure or farm to be registered according to the application; otherwise the application shall be rejected. If within the limited time any recorded proprietor, or any party interested not being a proprietor, object to the registry, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and shall refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time.

Procedure  
application  
for  
special registry.

Registration of  
leases of certain  
lands.

XLIII.\* Leases of lands of the description specified in the fourth exceptional class in Section XXXVII, may be registered, at the option of the holders, in the manner and under the rules hereinbefore provided for the registry of Talookdaree and other similar tenures.

Registration of  
old tenures. Pro-  
viso.

XLIV.\* Tenures of the first and second exceptional classes in Section XXXVII may be registered, at the option of the holders; and when so registered shall be entered only in the special register. Application for such registry shall contain the particulars specified in Section XL so far as the same are ascertainable, and notices shall be served and issued in the manner prescribed in Section XLI. If within the limited time no objection is made by any recorded proprietor or by any party interested not being a proprietor, the Collector shall make such enquiries as may be necessary to satisfy him as to the validity of the tenure; and if the result be to satisfy him that the tenure is valid, he shall report the case to the Commissioner, who, if also satisfied that the tenure is valid, shall direct it to be entered in the special register; otherwise the application for registry shall be rejected. If within the limited time any recorded proprietor or other party as aforesaid object to the registry of the tenure, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and refer the parties to the Civil Court; otherwise he shall proceed as if no objection had been made. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time. Provided always that nothing contained in this Section shall be understood as rendering registration necessary for the protection of *bond fide* tenures of the description herein referred to.

\* See Act III, 1862, Sec. 2 of the Lieutenant Governor of Bengal in Council.

*XLV. Repealed by Sec. 1 Act III 1862. of the Lieutenant Governor of Bengal in Council.*

XLVI. The actual expenses of any measurement, survey, or local enquiry made under Sections XLII and XLIV of this Act, shall be borne by the party who applies for the registry of his tenure or farm; and such party may be required by the Collector from time to time to make such advances on this account as he may consider necessary.

Expenses of measurement, survey, or local enquiry.

XLVII. No Civil Court shall be competent to order the Revenue Authorities to enter any tenure or farm in the special register. Provided always that the refusal of the Revenue Authorities so to register any tenure or farm shall not affect the title of the holder, whatever it may be.

Civil Court not competent to order entry in the special register.

XLVIII. Subject to the general law of limitation, any person thinking himself wronged by the registry of a tenure or farm, may file a suit for the cancelment of the same.

Suit for the cancelment of the registry tenure or f

XLIX. In the execution of their functions in the registration of tenures and farms under this Act, all subordinate Revenue Authorities shall proceed in accordance with the general instructions which they may receive from the superior Revenue Authorities to whom they are subordinate, and from the local Government; and all orders passed under the Sections aforesaid shall be open to appeal in usual course. The order of a Commissioner for the special registry of a tenure under the provisions of this Act shall be open, at any time within one year from the date of registry, to revision by the Board of Revenue or the local Government, on the ground of the Government Revenue not having been sufficiently secured or of the invalidity of the tenure, as the case may be.

Proceedings of Revenue Authorities in the registration of tenures, &c.

L. Entry in the special register shall be an effectual protection of the tenure or farm so registered, unless, in a suit instituted by Government in a Civil Court within the period allowed for suits for the recovery of the public revenue, a decree be passed pronouncing the registration to have

Effect of entry in the special register.

been obtained by fraud, to the injury of the Government revenue. Provided, that a tenure or farm in the hands of a *bond fide* purchaser for value shall not be avoided by reason of such fraud. But the tenure or farm shall be liable to such amount of rent as would have been fair and equitable at the time of the special registry thereof, such amount to be fixed by the Collector.

Protection of talookdaree tenures pending enquiry, in case of sale of parent estate for arrears of revenue.

LII. Tenures and farms of the third exceptional class described in Section XXXVII of this Act, for the special registration of which application shall be made within the prescribed time, and in respect of which the Collector shall have commenced the enquiry prescribed in Section XLII, shall, in case of the sale of the parent estate for arrears of revenue, be protected pending the duration of such enquiry, and shall be protected eventually by registration, if the final award of the Revenue Authorities upon such application be in favor of the claimant.

Rights of a purchaser of an estate not permanently settled sold for its own arrears.

LIII. The purchaser of an estate in a district not permanently settled, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be entitled to avoid and annul all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with ryots or the like settled or accredited by the first engager or his representatives subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter or renew ; saving always and except leases of lands whereon dwelling houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force and effect.

Provided that nothing contained in this Section shall be construed to entitle any purchaser of land at a public sale for arrears of revenue to demand a higher rate of rent from any persons whose tenure or agreement may be annulled as aforesaid, than was demandable by the former proprietor, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, or in cases in which it may be proved that, according to the custom of the pergunnah, mouzah, or other local division, such persons are liable to be called upon for any new assessment, or other demand not interdicted by the regulations of Government.

LIII. Excepting sharers in estates under butwarrah who may have saved their shares from sale under Sections XXXIII and XXXIV Regulation XIX. 1814, and sharers with whom the Collector, under Sections X and XI of this Act, has opened separate accounts, any recorded or unrecorded proprietor or co-partner, who may purchase the estate of which he is proprietor or co-partner; or who by re-purchase or otherwise may recover possession of the said estate, after it has been sold for arrears under this Act; and likewise any purchaser of an estate sold for arrears or demands other than those accruing upon itself, shall by such purchase acquire the estate subject to all its encumbrances existing at the time of sale, and shall not acquire any rights in respect to under-tenants or ryots, which were not possessed by the previous proprietor at the time of the sale of the said estate.

Rights of a purchaser, being a sharer in any estate. And of a purchaser of an estate not sold for its own arrears.

LIV. When a share or shares of an estate may be sold under the provisions of Section XIII or Section XIV, the purchaser shall acquire the share or shares subject to all encumbrances, and shall not acquire any rights which were not possessed by the previous owner or owners.

Rights of purchasers of shares of estate.

LV. Arrears of rent which on the latest day of payment may be due to the defaulter from his under-tenants or ryots, shall, in the event of a sale, be recoverable by him after the said latest day, by any process except distraint

Recovery of arrears due to defaulters.



which might have been used by him for that purpose on or before the said latest day.

Punishment for contempt.

LVI. Any Collector or other officer as aforesaid conducting a sale under this Act shall be competent to punish any contempt committed in his presence in open cutcherry or office for the time being, by fine, to an extent not exceeding Two Hundred Rupees, commutable, if not paid, to imprisonment in the Civil jail for a period not exceeding one month; and the Magistrate to whom such an offender may be sent by a Collector or other officer as aforesaid, shall carry his sentence into effect. Provided, that an appeal from any order passed under this Section shall lie to the Revenue Commissioner, whose decision shall be final.

Default in making deposit to be considered a contempt.

LVII. A default to make good a bid by making the deposit required by Section XXII of this Act, shall be held to be a contempt.

Government may purchase at a sale.

LVIII. When an estate is put up for sale under this Act for the recovery of arrears of revenue due thereon, if there be no bid, the Collector or other officer as aforesaid may purchase the estate on account of the Government for One Rupee, or, if the highest bid be insufficient to cover the said arrears and those subsequently accruing up to the date of sale, the Collector or other officer as aforesaid may take or purchase the estate on account of the Government at the highest amount bid; in both which cases the Government shall acquire the property subject to the provisions of this Act.

*LIX. Repealed by Sec. 1. Act III, 1862, of the Lieutenant Governor of Bengal in Council.*

Regulations VII. 1822 and IX. 1825 to be in force in certain estates.

LX. The provisions of Regulation VII. 1822 and Regulation IX. 1825 shall be in force in every estate in any part of which a measurement, survey, or local enquiry may be made under this Act; and in every estate purchased or taken on account of Government under this Act.

Interpretation.

LXI. In the construction of this Act the word "Collector" shall include a Deputy Collector or other officer

exercising by the authority of Government the powers of a Collector or Deputy Collector.

LXII. The operation of this Act shall be confined to such parts of the Lower Provinces in the Presidency of Fort William in Bengal as are or shall be subject to the general Regulations of that Presidency.

Application and  
commencement of  
this Act.

#### SCHEDULE A.

I certify that A. B. has purchased under Act No. XI of 1859 the mehal (or share of a mehal) specified below, standing in the towjee of the district of \_\_\_\_\_ and that his purchase took effect on the \_\_\_\_\_ day of (being the day after that fixed for last day of payment).

(Signed) D E,  
Collector.

#### SPECIFICATION.

(if of an entire Mehal)

Towjee number  
Name of Mehal  
Name of the former proprietor  
Sudder Jumma

(if of a share of a Mehal)

Towjee number of the entire Mehal  
Name of the entire Mehal  
Sudder Jumma of the entire Mehal  
Description of the share sold  
Subordinate Towjee number of the share sold  
Name of the former proprietor of the share sold  
Sudder Jumma for which the share sold is separately liable.

#### SCHEDULE B.

##### FEEs.

For filing an application under Section X or Section XI for opening a separate account for a share of an entire estate.

If the annual jumma of the share do not exceed 250 Rupees, 25-0-0

If the annual jumma of the share exceed 250 Rupees and do not exceed 1,000 Rupees, at the rate of ten per cent. upon the jumma.

If the annual jumma of the share exceed 1,000 Rupees, at the rate of ten per cent upon 1,000 Rupees, and two per cent upon all above that amount.

For filing an application for a deposit of money or Government Securities under Section XV, half per cent on the amount deposited.

For any interest on Government Securities so deposited, drawn by the Collector, half per cent. of the amount drawn.

For filing an application for withdrawal of a deposit under Section XVI, half per cent. of the amount withdrawn.

For filing an application under Section XL, XLIII, or XLIV for the registration of an under-tenure or farm.

If the annual rent of the under-tenure do not exceed 500 Rupees  
25 0 0.

If the annual rent of the under-tenure exceed 500 Rupees and do not exceed 1,000 Rupees, at the rate of five per cent. upon the rent.

If the annual rent of the under-tenure exceed 1,000 Rupees at the above rate up to 1,000 Rupees, and at one per cent. upon all above that amount.

## BENGAL.

## ACT No. 'XII OF '1859.

(Received the assent of the Governor General on the 4th May 1859)

1. *Acts repealed.*
2. *How Pilots accused of breach of duty shall be brought to trial.*
3. *Appointment of Judge.*
4. *Appointment of prosecutor.*
5. *Trial to be held before the Judge and Jury.*
6. *Lists of Merchants and Pilots liable to serve on the Jury.*
7. *Notice to prosecutor and accused of time and place for appointing Jury.*
8. *Appointment of Jury.*
9. *Day of trial to be fixed, and summons to issue to Jurors.*
- Penalty for non-attendance.*
10. *Trial how to proceed, if any of the Jurors do not attend.*
11. *Register of Jurors who have served.*
12. *Jurors to be sworn.*

13. Judge may ~~summon~~<sup>summon</sup> witnesses to attend at a certain time and place. Examination of witnesses about to leave Calcutta.

14. Penalty on witnesses not attending, or refusing to give evidence.

15. Witnesses to be examined on oath, according to the rules in force in the Supreme Court.

16. Verdict of Jurors.

17. Sentence of Court, if the accused be found guilty. Schedule of offences and punishments to be prepared. Acquittal.

18. No sentence to be final, till approved by Government. Government may remit sentence or mitigate punishment.

19. If verdict of Jurors be manifestly contrary to evidence, or trial be otherwise insufficient.

20. Power of Government to make rules of practice.

21. Act not to restrict Marine Authorities or Government from passing orders upon a charge of breach of duty, where a trial is not deemed necessary.

22. Withdrawal of license from licensed Pilot.

23. Act applicable to persons in the Pilot Service and to licensed Pilots.

An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.

WHEREAS it is expedient to amend the law for the trial of persons employed in the Pilot Service of Government at the Presidency of Fort William in Bengal, when accused of breach of duty, and to extend the same to persons licensed to act as Pilots at the said Presidency; it is enacted as follows:

I. Act XXIV. of 1845 (for establishing a Court for the trial of Officers of the Pilot Service accused of breach of duty) and Act I of 1851 (for the appropriation of fines levied under Act XXIV of 1845) are hereby repealed.

Acts repealed.

II. When any person employed in the Pilot Service of Government at the Presidency of Fort William in Bengal, or licensed to act as a Pilot at the said Presidency, shall be accused of having committed any breach of duty while engaged in such service or acting under such license, and it shall appear to the Superintendent of Marine, or to the Lieutenant-Governor of Bengal, that such person ought to

How Pilots accused of breach of duty shall be brought to trial.

be brought to trial for such breach of duty, such person shall be brought to trial upon a charge or charges framed by the said Superintendent of Marine, or such other person as the said Lieutenant-Governor shall direct, before a Court constituted under the provisions of this Act.

III. The Lieutenant-Governor of Bengal shall appoint a fit person to be Judge of the said Court.

IV. The Lieutenant-Governor shall appoint such person as he may think proper to conduct the proceedings before the Court as prosecutor on the part of Government.

V. Every trial under this Act shall be held before the said Judge and a Jury composed of two Merchants of Calcutta, a Master of a merchant ship lying in the port of Calcutta, and a Pilot of not less than twenty years' service.

VI. The Judge shall cause to be prepared and shall keep two separate lists, one containing the names of Merchants, the other containing the names of Pilots liable to serve on such Jury. The names in each list shall be arranged in alphabetical order, and the place of abode and quality or business of each person named shall be stated.

VII. When the Judge shall be about to hold a trial under this Act, he shall give notice to the prosecutor and to the party accused of a time and place to be fixed by the Judge for appointing a Jury to serve at such trial.

VIII. At the time and place mentioned in the notice, the Judge, in the presence of the prosecutor and the person accused, shall read over the names which first occur in each of the said lists of those Merchants and Pilots who he has reason to believe are present in Calcutta and capable of attending as Jurors at the trial; and shall also propose the name of a Master of a merchant ship lying in the port of Calcutta, whom he deems qualified to serve on such Jury. If no objection be made and allowed, the persons so nominated shall be the Jury to serve at the trial. If the prosecutor or the party accused shall object to any of the persons named as

Jurors, he shall assign the grounds of his objection, and such objection shall forthwith be decided by the Judge. If the objection be allowed, the Judge shall read from the said lists or propose (as the case may be) another name in the place of the one objected to, and the person so nominated shall serve on the Jury provided no objection to such person be made and allowed as aforesaid.

IX When a jury has been appointed under the last preceding Section, the Judge shall fix a day for the trial and shall summon by writing under his hand the persons so appointed to sit as a Jury. If any such person when duly summoned shall, without such excuse as the Judge shall allow to be sufficient, neglect or refuse to attend at the time appointed or to remain in attendance until the trial shall be completed, it shall be lawful for the said Judge to impose upon any such person a fine not exceeding Two Hundred Rupees for every such default; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the defaulter under a Warrant to be issued for that purpose by the Judge. Such Warrant may be transmitted by the Judge to any Magistrate of Police for the town of Calcutta, and thereupon such Magistrate shall endorse the same, and shall cause it to be executed in the same manner as if the Warrant had been issued by such Magistrate.

Day of trial to be fixed and summons to issue to Jurors. Penalty for non-attendance.

X. If for any cause any of the persons summoned to attend as Jurors shall not be in attendance at the time fixed for the commencement of the trial, the trial may, with the consent of the prosecutor and the party accused, be held before the Judge and such Jurors as shall be in attendance. If such consent be not given, the place of the absent Juror shall be supplied by some other person selected by the Judge from the same profession or calling as the person originally summoned and who shall consent to serve, provided no objection to such person be made and allowed in manner aforesaid. If the parties or either of them do not consent that the trial shall be held before the Judge and such Jurors as may be in attendance, and the place of the absent Juror

Trial how to proceed if any of the Jurors do not attend.

cannot be supplied by a person consenting to serve, the trial shall be postponed to another day, and the Judge shall either re-summon the same Jury or appoint and summon another Jury in the manner hereinbefore provided.

Register of  
Jurors who have  
served.

XI. The Judge shall register in a book the names of all Jurors mentioned in either of the said two lists who have attended and served on a trial held under this Act. A Juror who has served shall not be required again to serve, and his name shall be excluded in reading over the Jury lists, until all the persons named in the said lists who are present in Calcutta and capable of attending as Jurors shall have served.

Jurors to be  
sworn.

XII. Before the commencement of any trial under this Act, the persons summoned and attending as Jurors shall be sworn or affirmed by the Judge of the Court to give a true verdict according to the evidence.

Judge may sum-  
mon witnesses to  
attend at a certain  
time and place. Ex-  
amination of wit-  
nesses about to  
leave Calcutta.

XIII. It shall be lawful for the Judge of the said Court, at the instance of the prosecutor, or of the party accused, or of his own motion, by writing under his hand, to summon any person to attend as a witness at a time and place to be specified in the summons, for the purpose of being examined at any trial before the said Court: or, if such person shall be about to depart from Calcutta, so as to be unable to attend at such trial without serious inconvenience, then to be examined before the Judge of the said Court before the day fixed for the trial; Provided always, that due notice of the time and place of such examination shall be given to the accused party; Provided also, that such witness may nevertheless be examined at the trial if he shall be able to attend thereat, in which case his previous examination may also be read at the trial.

Penalty for wit-  
nesses not attend-  
ing or refusing to  
give evidence.

XIV. If any person who shall have been duly summoned to attend as a witness, shall, without sufficient excuse, neglect or refuse to attend, or attending shall refuse to give evidence or to answer any question which may be lawfully put to him, such person shall forfeit and pay such fine, not exceeding Five Hundred Rupees, as the Judge of the said

Court shall order; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the person ordered to pay the same in the manner prescribed in Section IX of this Act.

XV. The evidence of every witness examined before the said Court shall be given on oath, affirmation, or otherwise, according to the rules in that behalf for the time being in force for the examination of witnesses in Her Majesty's Supreme Court of Judicature.

Witnesses to be examined on oath, according to the rules in force in the Supreme Court.

XVI. Upon the completion of the trial, the Jurors shall give their verdict upon the charge, or, if there be more than one, upon each separate charge. The verdict shall be according to the opinion of the majority of Jurors. If the Jurors are equally divided, the Judge shall declare his opinion, and the verdict shall be according to the opinion of the Judge and the Jurors with whom he concurs.

Verdict of Jurors.

XVII. If by such verdict the accused person is found guilty of the charge or of any one or more of the charges preferred against him, the Judge of the Court shall sentence him to be dismissed from the said Pilot Service, or to have his license withdrawn, or shall award such other punishment by loss of rank or pay, or by change of a license from a higher to a lower grade, or suspension from employment for a specified period, as to the Judge shall appear fit. The Lieutenant-Governor of Bengal, with the sanction of the Governor General in Council, may prepare a Schedule of offences and punishments (such punishments being of the same nature as those hereinbefore mentioned) for the guidance of the said Court; and if such Schedule be prepared and sanctioned, and the charge proved before the said Court is an offence specified in such Schedule, the Judge of the said Court shall award such punishment as is prescribed for such offence in the said Schedule, and no other. If by such verdict as aforesaid the accused person is found not guilty of the charge or charges preferred against him, the Judge shall declare him acquitted of the same.

Sentence of Court, if the accused be found guilty.

Schedule of offences and punishments to be prepared.

Acquittal.



No sentence to be final till approved by Government.

Government may remit sentence or mitigate punishment.

If verdict of Jurors be manifestly contrary to evidence, or trial be otherwise insufficient.

Power of Government to make rules of practice

This Act not to restrict Marine Authorities or Government from passing orders upon a charge of breach of duty where a trial is not deemed necessary.

Withdrawal of license from licensed Pilot.

Act applicable to persons in the Pilot service and to licensed Pilots.

XVIII. The proceedings of the Court shall be sent by the Judge to the Superintendent of Marine for submission to the Lieutenant-Governor of Bengal ; and no sentence of punishment pronounced by the Judge of the said Court shall be final, until it has been approved of by the said Lieutenant-Governor. The said Lieutenant-Governor may remit the whole or any part of such sentence, or may direct the substitution of any mitigated punishment in lieu of the punishment awarded by the said Court, as he shall think fit.

XIX. If it shall appear to the Judge of the said Court that the verdict of the Jurors is manifestly contrary to the evidence, or that the trial is otherwise insufficient, the Judge, instead of passing sentence on the accused person or declaring him acquitted, as the case may be, may certify the same to the Lieutenant-Governor of Bengal, and the said Lieutenant-Governor may either order a new trial before another Jury or acquit the accused person, as he shall think fit.

XX. It shall be lawful for the Lieutenant-Governor of Bengal to make such rules as he shall think proper, not inconsistent with the provisions of this Act, for conducting the proceedings and regulating the practice of the said Court.

XXI. Nothing contained in this Act shall be held to restrict the Marine Authorities or the Government from passing such orders as may be deemed proper upon any charge of breach of duty preferred against any person employed in the said Pilot Service, when it shall not be deemed necessary that such person should be brought to trial for such breach of duty under the provisions of this Act.

XXII. If any person licensed to act as a Pilot, when duly charged with breach of duty as aforesaid, shall refuse to submit himself to trial under the provisions of this Act, the license of such person shall be withdrawn, and he shall be incapable of being again licensed to act as a Pilot at the said Presidency.

XXIII. The provisions of this Act shall extend to all persons employed in the Pilot Service at the said Presidency,

and borne on the rolls of the Government establishment, whether such persons receive fixed salaries, or are remunerated by a portion of the pilotage charged on the vessels piloted by them, or in any other manner, and to all persons licensed to act as Pilot at the said Presidency.

ACT No. XIII OF 1859.

PRESIDENCY  
TOWNS.

(Received with the assent of the Governor General on the 4th May 1859.)

1. *If a workman neglect to perform work, on account of which he has received an advance of money, complaint may be made to the Magistrate.*
2. *Magistrate may order re-payment, of advance or performance of contract, at the employer's option. Penalty, if the workman fail to comply with the order.*
3. *Magistrate may require the workman to give security for due performance of order.*
4. *To what contracts the Act extends.*
5. *Act may be extended by Government.*

An Act to provide for the punishment of breaches of contract by Artificers, Workmen, and Laborers in certain cases.

WHEREAS much loss and inconvenience are sustained by manufacturers, tradesmen, and others in the several Presidency Towns of Calcutta, Madras, and Bombay, and in other places, from fraudulent breach of contract on the part of Artificers, Workmen, and Laborers who have received money in advance on account of work which they have contracted to perform; and whereas the remedy by suit in the Civil Courts for the recovery of damages is wholly insufficient, and it is just and proper that persons guilty of such fraudulent breach of contract should be subject to punishment; It is enacted as follows:—

I. When any Artificer, Workman, or Laborer shall have received from any Master or Employer resident or carrying on business in any Presidency Town, or in any station of the Settlement of Prince of Wales' Island, Singapore, and Malacca, or from any person acting on behalf of such Master or

If a Workman neglect to perform work, on account of which he has received an advance of money, complaint may be made to the Magistrate.

employer, an advance of money on account of any work which he shall have contracted to perform, or to get performed by any other Artificers, Workmen, or Laborers, if such Artificer, Workman, or Laborer shall wilfully and without lawful or reasonable excuse neglect or refuse to perform or get performed such work according to the terms of his contract, such Master or Employer or any such person as aforesaid may complain to a Magistrate of Police, and the Magistrate shall thereupon issue a summons or a warrant, as he shall think proper, for bringing before him such Artificer, Workman, or Laborer, and shall hear and determine the case.

Magistrate may order re-payment of advance or performance of contract, at the employer's option.

II. If it shall be proved to the satisfaction of the Magistrate, that such Artificer, Workman, or Laborer has received money in advance from the complainant on account of any work, and has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed the same according to the terms of his contract, the Magistrate shall, at the option of the complainant, either order such Artificer, Workman, or Laborer to repay the money advanced, or such part thereof as may seem to the Magistrate just and proper, or order him to perform, or get performed, such work according to the terms of his contract; and if such Artificer, Workman, or Laborer shall fail to comply with the said order, the Magistrate may sentence him to be imprisoned with hard labor for a term not exceeding three months, or if the order be for the repayment of a sum of money, for a term not exceeding three months, or until such sum of money shall be sooner repaid; Provided, that no such order for the repayment of any money shall, while the same remains unsatisfied, deprive the complainant of any Civil remedy by action or otherwise which he might have had but for this Act.

Workman to give security for fulfilment of contract.

III. When the Magistrate shall order any Artificer, Workman, or Laborer to perform or get performed any work according to the terms of his contract, he may also at the request of the complainant require such Artificer, Workman, or Laborer to enter into a recognizance with sufficient security for the due performance of the order; and in default of his

entering into such recognizance or furnishing such security to the satisfaction of the Magistrate, may sentence him to be imprisoned with hard labor for a period not exceeding three months.

IV. The word "contract," as used in this Act, shall extend to all contracts and agreements whether by deed, or written or verbal, and whether such contract be for a term certain, or for specified work, or otherwise.

Definition of the word "contract."

V. This Act may be extended by the Governor General of India in Council, or by the Executive Government of any Presidency or place, to any place within the limits of their respective jurisdictions. In the event of this Act being so extended, the powers hereby vested in a Magistrate of Police shall be exercised by such Officer or Officers as shall be specially appointed by Government to exercise such powers.

This Act may be extended by the Supreme or

#### ACT No. XIV OF 1859.\*

GENERAL.

(Received the assent of the Governor General on the 5th May 1859.)

1. *Limitation of suits.*
2. *Suits against trustees and their representatives for breach of trust, &c. Proviso.*
3. *Shorter periods of limitation, if prescribed by particular Acts, to prevail.*
4. *Revival of right to sue by admission in writing. Proviso.*
5. *Computation of period of limitation in suits to recover property purchased from depositaries, pawnees, or mortgagees. Proviso.*
6. *Computation of period of limitation in suits in Supreme Courts, by mortgagee to recover immoveable property mortgaged.*
7. *Computation of period of limitation in suits to avoid incumbrances or under-tenures in estates sold for arrears of Government Revenue.*
8. *Computation of period of limitation in suits between merchants for balances of accounts current.*
9. *Computation of period of limitation in case of concealed fraud.*

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\* Modified by Acts XI, 1861, and XIV, 1862.

10. *Computation of period of limitation in suits where the cause of action is founded on fraud.*
11. *Computation of period of limitation in case of legal disability.*
12. *What persons to be deemed to be under legal disability.*
13. *Computation of period of limitation in case of absence of defendant.*
14. *Computation of period of limitation in case of suit prosecuted bonâ fide, but in wrong Court.*
15. *Person dispossessed of immoveable property, otherwise than by due course of law, may recover possession notwithstanding any title that may be set up. Suit for dispossession to be brought within six months. Suit to establish title not to be affected.*
16. *Act not to interfere with equitable jurisdiction of Supreme Courts.*
17. *Act not to extend to public property, nor to suits for the recovery of public claims.*
18. *Act not to apply to suits now pending, nor to suits instituted within two years. Suits afterwards instituted to be governed by this Act.*
19. *Proceedings for enforcing judgments, &c., of Supreme Courts to be taken within twelve years. Proviso as to judgments now in force.*
20. *Time for enforcing execution of judgment, &c., of a Civil Court not established by Royal Charter.*
21. *Preceding Section not to apply to judgments, &c., in force at the time of the passing of this Act.*
22. *Time for execution of a summary award of Civil Court or Revenue Authority.*
23. *Preceding Section not to apply to summary awards in force at the passing of this Act.*
24. *Operation of Act. Trial of pending suits, &c., in any Non-Regulation Province or place to which the Act is extended:*

An Act to provide for the Limitation of Suits.

WHEREAS it is expedient to amend and consolidate the laws relating to the Limitation of Suits ; It is enacted as follows:—

**Limitation of  
suits.**

I. No suit shall be maintained in any Court of Judicature within any part of the British territories in India in which this Act shall be in force, unless the same is instituted within the period of limitation hereinafter made applicable to a suit of that nature, any Law or Regulation to the contrary notwithstanding ; and the periods of limitation, and the suits

to which the same respectively shall be applicable, shall be the following, that is to say:—

1. To suits to enforce the right of pre-emption, whether the same is founded on law or general usage or on special contract, the period of one year, to be computed from the time at which the purchaser shall have taken possession under the sale impeached.

Suits to enforce right of pre-emption.

2. To suits for pecuniary penalties or forfeitures for the breach of any Law or Regulation; to suits for damages for injury to the person and personal property, or the reputation; to suits for damages for the infringement of copyright or of any exclusive privilege; to suits to recover the wages of servants, artizans, or laborers, the amount of tavern bills or bills for board and lodging or lodging only; and to summary suits before the Revenue authorities under Regulation V. 1822 of the Madras Code—the period of one year from the time the cause of action arose.

Suits for penalties, damages and wages; certain summary suits in Madras.

3. To suits to set aside the sale of any property, moveable or immoveable, sold under an execution of a decree of any Civil Court not established by Royal Charter when such suit is maintainable; to suits to set aside the sale of any property, moveable or immoveable, for arrears of Government Revenue or other demand recoverable in like manner; to suits by a Putneedar or the proprietor of any other intermediate tenure saleable for current arrears of rent, or other person claiming under him, to set aside the sale of any Putnee Talook or such other tenure sold for current arrears of rent; to suits to set aside the sale of any property, moveable or immoveable, sold in pursuance of any decree or order of a Collector or other Officer of Revenue—the period of one year from the date at which such sale was confirmed, or would otherwise have become final and conclusive, if no such suit had been brought.

Suits to set aside

4. To suits to set aside any attachment, lease, or transfer of any land or interest in land by the Revenue Authorities for arrears of Government Revenue, or to recover any money paid under protest in satisfaction of any claim

Suits to set aside certain proceedings for arrears of the Government Revenue.

made by the Revenue Authorities on account of arrears of revenue or demands recoverable as arrears of revenue—one year from the date of such attachment, lease, or transfer, or of such payment as the case may be.

Suits to alter  
summary orders of  
Mofussil Civil

5. To suits to alter or set aside summary decisions and orders of any of the Civil Courts not established by Royal Charter, when such suit is maintainable—the period of one year from the date of the final decision, award, or order in the case.

Suits to contest  
certain awards.

6. To suits brought by any person to contest the justice of an award which shall have been made under Regulation VII. 1822, Regulation IX. 1825, and Regulation IX. 1833 of the Bengal Code, or to recover any property comprised in such award—the period of three years from the date of the final award or order in the case.

Suits to set aside  
orders made under  
Acts XVI, 1838,  
and IV, 1840.

7. To suits by any party bound by any order respecting the possession of property made under Clause 2 Section I Act XVI of 1838, or Act IV of 1840, or any person claiming under such party, for the recovery of the property comprised in such order—the period of three years from the date of the final order in the case.

Suits to recover  
hire of animals,  
&c., and amounts  
of bills or rents.

8.\* To suits to recover the hire of animals, vehicles, boats, or household furniture; or the amount of bills for any articles sold by retail; and to all suits for the rents of any buildings or lands (other than summary suits before the Revenue authorities under Regulation V. 1822 of the Madras Code)—the period of three years from the time the cause of action arose.

Suits for breach  
of contract, or for  
money lent or in-  
terest where there  
is no written con-  
tract.

9. To suits brought to recover money lent or interest or for the breach of any contract—the period of three years from the time when the debt became due or when the breach of contract in respect of which the suit is brought first took place, unless there is a written engagement to pay the money lent or interest, or a contract in writing, signed by the party to be bound thereby or by his duly authorized agent.

10. To suits brought to recover money lent or interest or for the breach of any contract, in cases in which there is a written engagement or contract, and in which such engagement or contract could have been registered by virtue of any Law or Regulation in force at the time and place of the execution thereof—the period of three years from the time when the debt became due or when the breach of contract in respect of which the action is brought first took place, unless such engagement or contract shall have been registered within six months from the date thereof.

Suits for breach of contract, or money lent, or interest, where there is a written engagement.

11. To suits, in cases governed by English law, upon all debts and obligations of record and specialties; and to suits for the recovery of any legacy—the period of twelve years from the time the cause of action arose.

Suits upon matters of record or specialties, or for legacies.

12. To suits for the recovery of immoveable property, or of any interest in immoveable property, to which no other provision of this Act applies—the period of twelve years from the time the cause of action arose.

Suits for immoveable property or interest.

13. To suits to enforce the right to share in any property moveable or immoveable on the ground that it is joint family property; and to suits for the recovery of maintenance, where the right to receive such maintenance is a charge on the inheritance of any estate—the period of twelve years from the death of the persons from whom the property alleged to be joint is said to have descended, or on whose estate the maintenance is alleged to be a charge; or from the date of the last payment to the plaintiff or any person through whom he claims, by the person in the possession or management of such property or estate on account of such alleged share, or on account of such maintenance as the case may be.

Suits for maintenance or for right to share in joint family property.

14. To suits by the proprietor of any land or by any person claiming under him, for the resumption or assessment of any Lakeraj or rept-free land—the period of twelve years from the time when the title of the person claiming the

Suits for resumption or assessment.



right to resume and assess such lands, or of some person under whom he claims, first accrued. Provided that, in estates permanently settled, no such suit, although brought within twelve years from the time when the title of such person first accrued, shall be maintained, if it is shown that the land has been held Lakheraj or rent-free from the period of the permanent settlement.

Suits against depositaries, pawnees and mortgagees.

15. To suits against a depositary, pawnee or mortgagee of any property moveable or immovable for the recovery of the same—a period of thirty years if the property be moveable, and sixty years if it be immovable, from the time of the deposit, pawn, or mortgage; or if in the mean time an acknowledgment of the title of the depositor, pawner, or mortgagor, or of his right of redemption, shall have been given in writing signed by the depositary, pawnee or mortgagee or some person claiming under him, from the date of such acknowledgment in writing.

Suits not provided for otherwise.

16. To all suits for which no other limitation is hereby expressly provided—the period of six years from the time the cause of action arose.

Suits against trustees and their representatives for breach of trust, &c. Proviso.

II. No suit against a trustee in his lifetime, and no suits against his representatives for the purpose of following in their hands the specific property which is the subject of the trust, shall be barred by any length of time; but no suit to make good the loss occasioned by a breach of trust out of the general estate of a deceased trustee shall be maintained in any of the said Courts, unless the same is instituted within the proper period of limitation according to the last preceding Section, to be computed from the decease of such trustee; Provided, that nothing herein contained shall prevent a co-trustee from enforcing, against the estate of a deceased trustee, any claim for contribution, if he shall institute a suit for that purpose within six years after such right of contribution shall have arisen.

Shorter periods of limitation, if prescribed by par-

III. When, by law now or hereafter to be in force, a shorter period of limitation than that prescribed by this

Act is specially prescribed for the institution of a particular suit, such shorter limitation shall be applied notwithstanding this Act.

ticular Acts, to prevail.

IV. If, in respect of any legacy or debt, the person who, but for the law of limitation, would be liable to pay the same, shall have admitted that such debt or legacy or any part thereof is due, by an acknowledgment in writing signed by him, a new period of limitation, according to the nature of the original liability, shall be computed from the date of such admission; Provided that, if more than one person be liable, none of them shall become chargeable by reason only of a written acknowledgment signed by another of them.

Revival of right to sue by admission in writing. Proviso.

V. In suits for the recovery from the purchaser or any person claiming under him of any property purchased *bond fide* and for valuable consideration from a trustee, depositary, pawnee, or mortgagee, the cause of action shall be deemed to have arisen at the date of the purchase. Provided that, in the case of purchase from a depositary, pawnee, or mortgagee, no such suit shall be maintained unless brought within the time limited by Clause 15 Section I.

Suits to recover property purchased from depositaries, pawnees, or mortgagees. Proviso.

VI. In suits in the Courts established by Royal Charter by a mortgagee to recover from the mortgagor the possession of the immoveable property mortgaged, the cause of action shall be deemed to have arisen from the latest date at which any portion of principal money or interest was paid on account of such mortgage debt.

Suits in Supreme Courts, by mortgagees to recover immoveable property mortgaged.

VII. In suits to avoid incumbrances or under-tenures in an estate sold for arrears of Government Revenue due from such estate, or in a Putnee Talook or other saleable tenure sold for arrears of rent which by virtue of such sale becomes freed from incumbrances and under-tenures, the cause of action shall be deemed to have arisen at the time when the sale of the estate, talook, or tenure became final and conclusive.

Suits to avoid incumbrances or under-tenures in estates sold for arrears of Government Revenue.

VIII. In suits for balances of accounts current between merchants and traders who have had mutual dealings, the

Suits between merchants for balances of accounts current.

cause of action shall be deemed to have arisen at, and the period of limitation shall be computed from, the close of the year in the accounts of which there is the last item admitted or proved indicating the continuance of mutual dealings; such year to be reckoned as the *sayne* is reckoned in the accounts.

Cases of concealed fraud.

IX. If any person entitled to a right of action shall by means of fraud have been kept from the knowledge of his having such right or of the title upon which it is founded, or if any document necessary for establishing such right shall have been fraudulently concealed, the time limited for commencing the action against the person guilty of the fraud or accessory thereto, or against any person claiming through him otherwise than in good faith and for a valuable consideration, shall be reckoned from the time when the fraud first became known to the person injuriously affected by it, or when he first had the means of producing or compelling the production of the concealed document.

Suits where the cause of action is founded on fraud.

X. In suits in which the cause of action is founded on fraud, the cause of action shall be deemed to have first arisen at the time at which such fraud shall have been first known by the party wronged.

Cases of legal disability.

XI. If, at the time when the right to bring an action first accrues, the person to whom the right accrues is under a legal disability, the action may be brought by such person or his representative within the same time after the disability shall have ceased as would otherwise have been allowed from the time when the cause of action accrued, unless such time shall exceed the period of three years, in which case the suit shall be commenced within three years from the time when the disability ceased; but if, at the time when the cause of action accrues to any person, he is not under a legal disability, no time shall be allowed on account of any subsequent disability of such person or of the legal disability of any person claiming through him.

XII. The following persons shall be deemed to be under legal disability within the meaning of the last preceding

Section—married women in cases to be decided by English law, minors, idiots, and lunatics.

XIII. In computing any period of limitation prescribed by this Act, the time during which the defendant shall have been absent out of the British territories in India shall be excluded from such computation, unless service of a summons to appear and answer in the suit can, during the absence of such defendant, be made in any mode prescribed by law.

Computation in case of absence of defendant from India.

XIV. In computing any period of limitation prescribed by this Act, the time during which the claimant, or any person under whom he claims, shall have been engaged in prosecuting a suit upon the same cause of action against the same defendant, or some person whom he represents, *bona fide* and with due diligence, in any Court of Judicature which, from defect of jurisdiction or other cause, shall have been unable to decide upon it, or shall have passed a decision which, on appeal, shall have been annulled for any such cause, including the time during which such appeal, if any has been pending, shall be excluded from such computation.

Suit prosecuted bona fide, but in wrong Court.

XV. If any person shall without his consent have been dispossessed of any immoveable property otherwise than by due course of law, such person or any person claiming through him shall, in a suit brought to recover possession of such property, be entitled to recover possession thereof notwithstanding any other title that may be set up in such suit, provided that the suit be commenced within six months from the time of such dispossession. But nothing in this Section shall bar the person from whom such possession shall have been so recovered, or any other person, instituting a suit to establish his title to such property and to recover possession thereof within the period limited by this Act.

Suit for dispossession of immoveable property otherwise than by due course of law, to be brought within six months. Suit to establish title not to be affected.

XVI. Nothing in this Act contained shall be deemed to interfere with any rule or jurisdiction of any Court established by Royal Charter in refusing equitable relief, on the ground of acquiescence or otherwise, to any person whose

Act not to interfere with equitable of

right to bring a suit may not be barred by<sup>o</sup> virtue of this Act.

Act not to extend to public property, nor to suits for the recovery of public claims.

XVII. This Act shall not extend to any public property or right, nor to any suits for the recovery of the public revenue or for any public claim whatever, but such suits shall continue to be governed by the laws or rules of limitation now in force.

Act not to apply to suits now pending or to suits instituted within two years.

XVIII. All suits that may be now pending, or that shall be instituted within the period of two years from the date of the passing of this Act, shall be tried and determined as if this Act had not been passed ; But all suits to which the provisions of this Act are applicable that shall be instituted after the expiration of the said period shall be governed by this Act and no other law of limitation, any Statute Act or Regulation now in force notwithstanding.

Proceedings for enforcing judgments, &c., of Supreme Courts to be taken within twelve years. Proviso, as to judgments now in force.

XIX.\* No proceeding shall be taken to enforce any judgment, decree, or order of any Court established by Royal Charter, but within twelve years next after a present right to enforce the same shall have accrued to some persons capable of releasing the same ; unless in the meantime such judgment, decree, or order shall have been duly revived, or some part of the principal money secured by such judgment, decree, or order or some interest thereon shall have been paid, or some acknowledgment of the right thereto shall have been given in writing signed by the person by whom the same shall be payable or his agent to the person entitled thereto or his agent ; and in any such case no proceeding shall be brought to enforce the said judgment, decree, or order, but within twelve years after such revivor, payment, or acknowledgment, or the latest of such revivors, payments, or acknowledgments as the case may be : Provided that, for three years next after the passing of this Act, every judgment, decree, and order which may be in force at the date of the passing of this Act shall be governed by the law now in force, anything therein contained notwithstanding.

\* Not to come into operation till 1st January 1862. See Act XI, 1861.

XX.\* No process of execution shall issue from any Court not established by Royal Charter to enforce any judgment, decree, or order of such Court, unless some proceeding shall have been taken to enforce such judgment, decree, or order or to keep the same in force within three years next preceding the application for such execution.

Time for enforcing execution of judgment, &c., of a Civil Court in the Mofussil.

XXI.\* Nothing in the preceding Section shall apply to any judgment, decree or order in force at the time of the passing of this Act, but process of execution may be issued, either within the time now limited by law for issuing process of execution thereon, or within three years next after the passing of this Act, whichever shall first expire.

Preceding Section not to apply to judgments, &c., already in force.

XXII.\* No process of execution shall issue to enforce any summary decision or award of any of the Civil Courts not established by Royal Charter or of any Revenue Authority, unless some proceeding shall have been taken to enforce such decision or award or to keep the same in force within one year next preceding the application for such execution.

\* Time for execution of a summary award of Civil Court or Revenue Authority.

XXIII.\* Nothing in the preceding Section shall apply to any summary decision or award in force at the time of the passing of this Act, but process of execution may be issued either within the time now limited by law for issuing process of execution thereon, or within two years next after the passing of this Act, whichever shall first expire.

Preceding Section not to apply to summary awards already in force.

XXIV. This Act shall take effect throughout the Presidencies of Bengal, Madras, and Bombay, including the Presidency Towns and the Straits' Settlement; but shall not take effect in any Non-Regulation Province or place until the same shall be extended thereto by public notification by the Governor General in Council or by the local Government to which such Province or place is subordinate. Whenever this Act shall be extended to any Non-Regulation Province or place by the Governor General in Council or by the local

Operation of Act. Trial of pending suits, &c., in any Non-Regulation Province or place to which the Act is extended.

\* Not to come into operation till 1st January 1862. See Act XI, 1861.

Government to which such Province or place is subordinate, all suits which within such Province or place shall be pending at the date of such notification or shall be instituted within the period of two years from the date thereof, shall be tried and determined as if this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted within such Province or place after the expiration of the said period, shall be governed by this Act and by no other law of limitation, any Statute, Act or Regulation now in force notwithstanding.

## GENERAL.

## ACT No. XV. OF 1859.

*(Received the assent of the Governor General on the 17th May 1859.)*

1. *Inventor may petition for leave to file specification. Form, &c., of petition.*
2. *Order to file specification.*
3. *Power to refer petition for enquiry and report.*
4. *Petitioner entitled to exclusive privilege for 14 years from the time of filing specification. Extension of term of exclusive privilege.*
5. *Order to file specification may be made subject to conditions.*
6. *Specification to be in writing and to describe the invention.*
7. *Petition and specification to be left with Secretary to Government. Petition, &c., to be accompanied by declaration. Date of delivery to be endorsed on petition.*
8. *False statement in declaration punishable as perjury.*
9. *Specification not to be filed before payment of fees.*
10. *Copies of specification to be delivered and distributed. To be open to inspection.*
11. *Book for the registry of petitions, specifications, &c.*
12. *Inspection of registry book. Certified copy of entry to be given.*
13. *Certified copy to be primâ facie evidence.*
14. *In what cases petitioner may apply for leave to file amended specification. Effect of amended specification.*
15. *No person entitled to exclusive privilege in any of the following cases. If invention of no utility. If invention not new. If petitioner is not inventor. If specification does not describe the invention. If petition contain wilful or fraudulent mis-statement.*

16. *Exclusive privilege to cease, if Government declare it mischievous, &c. to the public. Or if Government, upon breach of condition proved, declare that it shall cease.*

17. *Importer of invention, if not the actual inventor, not to be deemed inventor.*

18. *Foreign inventor.*

19. *An invention not publicly used or known in the United Kingdom or in India before the application for leave to file a specification, to be deemed a new invention within this Act. Knowledge of invention fraudulently acquired. Proviso. Public use by inventor.*

20. *Inventor, having obtained English Letters Patent, to petition within 12 months from the passing of this Act or from the date of the Letters Patent. Invention, if not publicly known or used in India at the time of applying for such Letters Patent, to be deemed new. What to be stated in such Petition. Duration of exclusive privilege.*

21. *Saving of rights of persons who used invention before 7th of July 1855.*

22. *Action for infringement.*

23. *Defect in specification or petition, or want of novelty in invention, &c., no defence to action for infringement. The actual use of an invention in India or the United Kingdom before date of petition, a defence to such action.*

24. *Application to Supreme Courts to declare exclusive privilege not to have been acquired on following grounds—Invention of no utility. Invention not new. Petitioner not the inventor. Invention not described in specification. Fraud in petition or specification. Fraudulent mis-statement in petition or specification. Insufficient description of part of invention in specification.*

25. *Like application as to part of an invention.*

26. *Application by the Advocate General on breach of special condition.*

27. *Service of proceedings on all persons interested.*

28. *Supreme Court may direct issue for trial to other Courts. New trial.*

29. *Judgment. Costs.*

30. *Amendment of specification by Court. Proviso.*

31. *Mis-statement in the petition, if not fraudulent, not to defeat the privilege.*

32. *Entry in registry book of judgment, &c. declaring privilege not to have been acquired.*

33. *In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.*

34. *Particulars to be delivered.*



35. *Service of proceedings.*

56. *Act VI of 1856 to have effect in respect of certain specifications filed and acts done.*

37. *Stamps on petition.*

38. *Interpretation. Number. Gender. "Invention." "Manufacture." "Printed." "Inventor" and "actual inventor." "Assigns." "India." "Governor General in Council." "Secretary to the Government of India." "Her Majesty's Courts of Judicature." "Courts of Judicature."*

"An Act for granting exclusive privileges to Inventors.

WHEREAS Act VI of 1856, entitled "An Act for granting exclusive privileges to Inventors," was passed by the Legislative Council of India without the sanction of Her Majesty to the passing thereof having been previously obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India:" and whereas, Her Majesty's Law Officers having given it as their opinion that the Legislative Council of India was not competent to pass Act VI of 1856 without previously obtaining the sanction of the Crown, and the Court of Directors of the East India Company having in pursuance of the power vested in them by law disallowed Act VI of 1856, and having signified to the Governor General of India in Council their disallowance thereof, the said Act was repealed by Act IX of 1857; and whereas it is expedient, for the encouragement of Inventors of new manufactures, that certain exclusive privileges in their inventions should be granted to them in India, and that exclusive privileges obtained under the said Act should be protected: It is enacted as follows (The sanction of Her Majesty to the passing of this Act having been previously obtained and signified in pursuance of the said Statute) :—

Inventor may  
petition for leave  
to file specification.  
Form &c. of peti-  
tion.

I. The inventor of any new manufacture may petition the Governor General of India in Council for leave to file a specification thereof. Every such petition shall be in writing in the form or to the effect mentioned in the Schedule herunto annexed, and shall be signed by the petitioner, or,

in case the petitioner shall be absent from India, by an authorized agent, and shall state the name, addition, and place of residence of the petitioner, and the nature of the invention.

II. Upon such petition, the Governor General of India in Council may make an order authorizing the petitioner to file a specification of the invention.

Order to file specification.

III. Before making such order, the Governor General of India in Council may refer the petition to any person or persons for enquiry and report, and such person or persons shall be entitled to a reasonable fee for such enquiry and report to be paid by the petitioner; the amount of such fee, in case of dispute, to be settled by a Judge of one of Her Majesty's Courts of Judicature in a summary manner.

Power to refer petition for enquiry and report.

IV. If, within the space of six calendar months from the date of such order, the petitioner cause a specification of his invention to be filed in manner hereinafter mentioned, the petitioner, his executors, administrators, or assigns, shall be entitled to the sole and exclusive privilege of making, selling, and using the said invention in India, and of authorizing others so to do, for the term of fourteen years from the time of filing such specification, and for such further term (if any), not exceeding fourteen years from the expiration of the first fourteen years, as the Governor General of India in Council may think fit to direct, upon petition to be presented by such inventor, at any period not more than one year, and not less than six calendar months, before the expiration of the exclusive privilege hereby granted.

Petitioner entitled to exclusive privilege for 14 years from the time of filing specification. Extension of term.

V. An order authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to any such conditions and restrictions as the Governor General of India in Council may think expedient.

Order may be made subject to conditions.

VI. Every specification of an invention filed under this Act shall be in writing, and shall be signed by the petitioner, and shall particularly describe and ascertain the nature

Specification to be in writing and to describe the invention.

of the said invention and in what manner the same is to be performed.

Petition and specification to be left with Secretary to Government, accompanied by a declaration. Date of delivery to be endorsed.

VII. Every petition for leave to file a specification, and every specification filed under this Act, shall be left with the Secretary to the Government of India in the Home Department, and every petition and specification shall be accompanied by a declaration in writing signed by the petitioner in the forms or to the effect mentioned in the Schedule herunto annexed ; and, if the inventor be absent from India, the petition and specification shall also be accompanied by a declaration signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration purporting to be the declaration of the inventor was signed by him, and that the contents thereof are true, which declaration shall be in the form or to the effect mentioned in the said Schedule. The date of the delivery of every such petition and specification shall be endorsed on the same respectively, and shall also be recorded at the office of the said Secretary.

False statement in declaration punishable as perjury.

VIII. If any person, who shall make a declaration under this Act, shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

Specification not to be filed before payment of fees.

IX. No specification shall be filed until the petitioner shall have paid all fees payable under this Act, including the fees (if any) of the person or persons to whom the petition shall have been referred for enquiry and report.

Copies of specification to be delivered and distributed. To be open to inspection.

X. At the time of delivering the specification for the purpose of being filed, the petitioner shall cause to be delivered to the said Secretary five copies thereof, of which

One shall be sent to and filed by one of the Secretaries to the Government of Bengal ;

One shall be sent to and filed by one of the Secretaries to the Government of Fort St. George ;

One shall be sent to and filed by one of the Secretaries to the Government of Bombay ; and .

One shall be sent to and filed by one of the Secretaries to the Government of the North-Western Provinces.

A copy of such specification shall be open at all reasonable times at the office of each of the said Secretaries to public inspection upon payment of a fee of one Rupee.

XI. A book shall be kept in the office of the said Secretary to the Government of India, wherein shall be entered and recorded every such petition and specification and every order made upon such petition or relating to the invention therein mentioned. Every specification shall be numbered according to the order in which it is entered in such book ; and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention, and to every petition, memorandum or amended specification which shall be filed under the provisions of Section XIV.

Book for the re-

XII. Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person upon payment of a fee of one Rupee ; and the said Secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

Inspection of registry book. Certified copy of entry to be given.

XIII. Every such certified copy shall be *prima facie* evidence of the document of which it purports to be a copy.

Certified copy to be prima facie evidence.

XIV. If, after the filing of the specification, the petitioner shall have reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his petition or specification, or included therein something which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor General in Council for leave to file a memorandum pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or, in case of any defect or insufficiency of the specification, for leave to file an amended specification. The petition shall state how the error, defect,

In what cases petitioner may apply for leave to file amended specification. Effect of amended specification.

or insufficiency occurred and that it was not fraudulently intended, and shall be accompanied by a declaration in writing signed by the petitioner, and, if he be absent from India, by his agent, stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition the Governor General in Council may make an order allowing such memorandum or amended specification to be filed. All the provisions of Sections X, XI, XII, and XIII, applicable to specifications, shall be applicable to the petitions, orders, and memoranda or amended specifications referred to in this Section. An amended specification filed under the provisions of this Act shall, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such amended specification, have the same effect as if it had been the specification first filed, provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

No person entitled to exclusive privilege in certain cases.

XV. No person shall be entitled to any exclusive privilege under the provisions of this Act—

If the invention is of no utility, or

If the invention, at the time of presenting the petition for leave to file the specification, was not a new invention within the meaning of this Act, or

If the petitioner is not the inventor thereof, or

If the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention and in what manner the same is to be performed, or

If the original or any subsequent petition relating to the invention, or the original or any amended specification, contain a wilful or fraudulent mis-statement.

Exclusive privilege when to cease.

XVI. Every exclusive privilege under this Act shall cease, if the Governor General of India in Council shall declare that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the peti-

tioner shall be authorized to file a specification, or upon which the term of the exclusive privilege shall be extended, shall be proved to the satisfaction of any of Her Majesty's Courts of Judicature, and if the Governor General of India in Council shall thereupon declare that such exclusive privilege shall cease.

XVII. The importer into India of a new invention shall not be deemed an inventor within the meaning of this Act, unless he be the actual inventor.

Importer, if not the actual inventor, not to be deemed inventor.

XVIII. A foreigner, whether resident abroad or not, may petition for leave to file a specification under this Act.

Foreign inventor.

XIX. An invention shall be deemed a new invention within the meaning of this Act, if it shall not, before the time of applying for leave to file the specification, have been publicly used in India or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in any part of India or of the United Kingdom by means of a publication either printed or written or partly printed and partly written. The public use or knowledge of an invention, prior to the application for leave to file a specification, shall not be deemed a public use or knowledge within the meaning of this Section, if the knowledge shall have been obtained surreptitiously or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor or in breach of confidence ; Provided the inventor shall, within six calendar months after the commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use ; Provided also, that the use of an invention in public by the inventor thereof, or by his servants or agents, or by any other person by his license in writing for a period not exceeding one year prior to the date of his petition, shall not be deemed a public use thereof within the meaning of this Act.

What to be deemed a new invention. Knowledge of invention fraudulently acquired. Proviso. Public use by inventor.

XX. If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Act, shall have obtained Her Majesty's Letters Patent for

Inventor having obtained English Letters Patent, to petition within 12 months from the

date thereof. Invention, if not publicly known or used in India at the time of applying for such Letters Patent, to be deemed new. Duration of exclusive privilege.

the exclusive use of such invention in the United Kingdom or any part thereof shall, within twelve calendar months from the passing of this Act, or within twelve calendar months from the date of such Letters Patent, petition the Governor General of India in Council for leave to file a specification of such invention (which petition shall be in writing in the form or to the effect mentioned in the Schedule), the invention shall be deemed a new invention within the meaning of this Act, if it was not publicly known or used in India at or before the date of the petition for *such Letters Patent*, notwithstanding it may have been publicly known or used in some part of the United Kingdom or in India before the time of his petitioning, under this Act, for leave to file the specification; Provided the petition for leave to file the specification shall state that such Letters Patent have been granted, and shall also state the date thereof and the term during which the same are to continue in force. Provided also that an exclusive privilege obtained under the provisions of this Act, by an inventor who has obtained Her Majesty's Letters Patent for the exclusive use of such invention, shall cease to have effect, if such Letters Patent be revoked or cancelled; and that no such exclusive privilege shall extend beyond the term granted by such Letters Patent unless the same shall be renewed, in which case the exclusive privilege may be renewed under this Act for the extended term or any part thereof.

Saving of rights of persons who used invention before 7th July 1855.

XXI. No exclusive privilege obtained under this Act shall entitle the owner of such privilege to exclude any person from using the invention, who, prior to the 7th day of July 1855, used the same in India.

Action for infringement of exclusive privilege.

XXII. An action may be maintained by an inventor against any person who, during the continuance of any exclusive privilege granted by this Act, shall, without the license of the said inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same. Provided that no such action shall be maintained in any Court other than the principal Court of original

jurisdiction in Civil cases within the local limits of whose jurisdiction the cause of action shall accrue or the defendant shall reside as a fixed inhabitant.

XXIII. No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor, or has obtained a right from him to use the invention, either wholly or in part. Any such action may be defended upon the ground that the invention was not new, if the person making the defence, or some person through whom he claims, shall, before the date of the petition for leave to file the specification, have publicly or actually used in India or in some part of the United Kingdom, the invention, or that part of it of which the infringement shall be proved; but not otherwise.

Defect in  
specification or  
or want of novelty  
in invention

Is actual use  
an invention in In-  
dia or the

Date of petition, a  
defence to such ac-  
tion.

XXIV. It shall be lawful for any person to apply by motion to any of Her Majesty's Courts of Judicature for a rule to show cause, why the Court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this Act by reason of all or any of the objections following (to be specified in the rule), that is to say—

That the said invention is of no utility, or

That the said invention was not, at the time of presenting the petition for leave to file the specification, a new invention within the meaning of this Act, or

That the petitioner was not the inventor thereof, or

That the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention, or in what manner the same is to be performed, or

Application may  
be made to Su-  
preme Courts to de-  
clare exclusive pri-  
vilege not to have  
been acquired  
certain  
grounds.



That the petitioner has knowingly or fraudulently included in the petition or specification or amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or

That the original or any subsequent petition relating to the invention, or the original or any amended specification, contains a wilful or fraudulent mis-statement, or

That some part of the invention, or the manner in which that part is to be performed as described in the specification filed or the amended specification, is not thereby sufficiently described and ascertained, and that such defect or insufficiency was fraudulent and is injurious to the public.

Like application  
as to part of an  
invention.

XXV. Any person may, in like manner, apply to any of Her Majesty's Courts of Judicature for a rule to show cause, why the Court should not declare that an exclusive privilege has not been acquired under the provisions of this Act in respect of any part of the invention, to be specified in the rule, by reason of all or any of the objections following (to be specified in the rule) that is to say —

That such part of the invention is wholly distinct from the other part thereof and is of no utility, or

That such part of the invention was not, at the date of the petition for leave to file the specification, a new invention within the meaning of this Act, or

That the petitioner was not the inventor of that part of the invention, or

That that part of the invention, and the manner in which it is to be performed, is not sufficiently described and ascertained in the specification filed or the amended specification, and that such defect or insufficiency is injurious to the public.

Application by  
Advocate General  
on breach of special  
condition.

XXVI. It shall be lawful for the Advocate General at any of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, or any other person, by order of the Governor General in Council, to apply to any of the said Courts of Judicature for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the

leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor General in Council under the power hereinbefore reserved may, in the judgment of the said Governor General in Council, depend, should not be tried in the form of an issue directed by the said Court; and if the rule be made absolute, the Court, unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor General in Council. The costs of such trial, and also the costs of any proceedings in any of the said Courts of Judicature under the provisions of this Act, shall be in the discretion of the Court.

XXVII. Notice of any rule obtained or proceeding taken under either of the last three preceding Sections shall be served on all persons appearing to be proprietors, or to have shares or interests in the exclusive privilege under the provisions of Section XXXV of this Act, and it shall not be necessary to serve such notice on any other persons.

Notice of proceedings to be served on all persons interested.

XXVIII. Any of the said Courts of Judicature, if it think fit, may direct an issue for the trial, before the same Court or any other Court of Judicature or any principal Court of original jurisdiction in Civil cases, of any question of fact arising upon an application under Sections XXIV, XXV, or XXVI of this Act, and such issue shall be tried accordingly in a summary manner, and, if the issue be directed to another Court, the finding shall be certified by the Court before which the same was tried, to the Court directing the issue. If the issue be directed to any Court of Judicature, the Court by which the issue is tried may, before the finding is certified, direct a new trial of such issue according to the usual course and practice of such Court. If the issue be directed to any Court other than a Court of Judicature, the finding shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge, shall be transmitted, together with any remarks he may think fit to make thereon,

Supreme Court may direct issue for trial to other Courts.

New trial.

to the Court by which the issue was directed; and such Court may either act upon the decision of the Court which tried the issue, or direct a new trial if it shall appear necessary.

**Judgment.  
Costs.**

XXIX. If it shall appear to any of the said Courts of Judicature at the hearing of any application under the provisions of Sections XXIV or XXV of this Act, that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall give judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just: and thereupon the petitioner, his executors, administrators, and assigns shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

**Amendment of  
specification  
Court.**

XXX. If the Court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the description of his invention in the petition or specification or amended specification (if any,) included something which at the date of the petition was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that the error, defect, or insufficiency was not fraudulently intended, the Court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency, or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, they may adjudge the exclusive privilege in the whole of the invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his executors, administrators, or assigns shall, within the time limited by the said Court for the purpose, file a specification amended according to such order. Provided, that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

**Proviso.**

XXXI. An exclusive privilege shall not be defeated upon the ground that the petition contains a mis-statement, unless such mis-statement was wilful or fraudulent.

Mis-statement, if not fraudulent, not to defeat the privilege.

XXXII. Whenever it shall be adjudged by any of the said Courts of Judicature that an exclusive privilege as to the whole or any part of an invention has not been acquired, the said Secretary to the Government of India shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

Judgment, &c., declaring privilege not to have been acquired, to be entered in registry book.

XXXIII. If, upon proceedings instituted within two years from the date of a petition to file a specification, the actual inventor shall prove, to the satisfaction of the principal Court having jurisdiction in Civil cases within the local limits of whose jurisdiction the defendant shall reside as a fixed inhabitant, that the petitioner was not the actual inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he derived such knowledge, the Court may compel the petitioner to assign to the actual inventor any exclusive privilege obtained under this Act, and to account for and pay over the profits thereof.

In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.

XXXIV. In any action for the infringement of such exclusive privilege, the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action; and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to any of the said Courts of Judicature under Sections XXIV, XXV, or XXVI of this Act, the applicant shall deliver

Particulars to be delivered.

particulars of the objections on which he means to rely. At the trial of any such action or issue, no evidence shall be allowed to be given in support of any alleged infringement, or of any objection impeaching the validity of such exclusive privilege, which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used shall be stated in such particulars. Provided always, that it shall be lawful for any Court in which the action or proceeding is pending, or in which the issue is tried, to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

Service of proceedings.

XXXV. A book shall be kept in the office of the Secretary to the Government of India in the Home Department (such book to be open to inspection without fee) wherein every person filing a specification under this Act, or any person to whom the exclusive privilege may be assigned, shall cause to be stated some place in India, where service of any rule or proceedings for the purpose of cancelling or revoking his exclusive privilege may be made, and shall cause a reference to such entry to be made in the margin of the entry of the specification, and may from time to time cause any other place in India to be substituted by a similar entry and reference. All such rules and proceedings as aforesaid shall be deemed sufficiently served if a copy thereof be left at the place entered in such book, or (if any other place be substituted for the same by entry in the said book) at the place last substituted, by delivering the same to any person resident at or in charge of such place : or, if there be no person resident at or in charge of such place, or if such place be not within the local limits of the jurisdiction of the Court, by causing such rule or proceeding to be sent by Post by a registered letter directed to such person at such place ; and if any such person shall neglect to make or cause to be made such entry, then service of such rule or proceeding may be

effected by affixing a copy thereof to some conspicuous part of the Court-house, or in such other manner as the Court may direct.

XXXVI. Act VI of 1856 shall be of the same force and effect in respect to every petition and specification filed under the provisions thereof before the Act was repealed, and in regard to all proceedings consequent thereon, or in relation thereto, and for the purpose of every thing done under that Act while it continued in force, as if previously to the passing of the said Act the sanction of Her Majesty to the passing thereof had been obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India," and as if the said Act had not been repealed; and the term of every exclusive privilege obtained under the said Act is hereby extended, and shall continue until the expiration of fourteen years from the time of the passing of this Act. No exclusive privilege obtained under the said Act by an importer, not being the actual inventor, shall cease to have effect by virtue of the provisions of Section XVI of the said Act, if the invention be put in practice in India within the period of two years from the time of the passing of this Act.

Act VI of 1856 to have effect in respect of certain specifications filed and acts done.

XXXVII. Every petition for leave to file a specification under the provisions of this Act, or for the extension of the term of an exclusive privilege, shall be written or printed on stamped paper of the value of One Hundred Rupees.

Stamps on petition.

XXXVIII. In the construction of this Act, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Words importing the masculine gender shall include females.

Int...  
Number. Gender.  
"Invention," "Ma-  
nufacture," "Print-  
ed," "Inventor"  
and "actual inven-  
tor," "Assigns,"  
"India," "Governor General in  
Secretary to the Govern-  
ment of India,"  
"Her Majesty's  
Courts of Judica-  
ture," "Courts of  
Judicature."

The word "invention" shall include an improvement.

The words "manufacture" shall be deemed to include any art, process, or manner of producing, preparing, or making an article, and also any article prepared or produced by manufacture.

The word "printed" shall include "lithographed."

The words "inventor" and "actual inventor" shall include the executors, administrators, or assigns of an inventor or actual inventor as the case may be.

The word "assigns" shall include grantees of the sole use or benefit in India of an invention, or of the sole use of an exclusive privilege for a limited time.

The word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."

The words "Governor General in Council" shall include the "President in Council."

The words "Secretary to the Government of India" shall include any Under-Secretary to the said Government.

The expressions "Her Majesty's Courts of Judicature" and "Courts of Judicature" shall mean the Courts established by Royal Charter.

## SCHEDULE OF FORMS.

### FORM OF PETITION (*see Section 1.*)

#### TO THE GOVERNOR GENERAL OF INDIA IN COUNCIL.

The petition of (*here insert name, addition, and place of residence*) for leave to file a specification under Act No. XV of 1859.

SHEWETH,

That your petitioner is in possession of an invention for (*state the title of the invention*) which invention he believes will be of public utility; that he is the inventor thereof (*or, as the case may be, the assignee or the executor or administrator of the inventor*); and that the same is not publicly known or used in India, or in any part of the United Kingdom of Great Britain and Ireland, to the best of his knowledge and belief.

The following is a description of the invention (*here describe it*)

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV of 1859.

And your petitioner, &c.

(Signed)

The                      day of

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FORM OF DECLARATION TO ACCOMPANY PETITION—(*see Section VII.*)

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the title of the invention as in the petition*); that I believe the said invention will be of public utility; that I am the inventor thereof (or, as the case may be, the assignee or executor or administrator of the inventor) and that the same is not publicly known or used in India, or in any part of the United Kingdom of Great Britain and Ireland, to the best of my knowledge and belief; and that, to the best of my knowledge and belief my said invention is truly described in my petition for leave to file a specification thereof.

The                      day of

(Signed)

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FORM OF DECLARATION TO ACCOMPANY SPECIFICATION—(*see Section VII.*)

I (*here insert name, addition, and place of residence*) do solemnly and sincerely declare that I am in possession of an invention for (*state the nature of the invention,*) which invention I believe will be of public utility; that I am the inventor thereof (or, as the case may be, the assignee or executor or administrator of the inventor) and that the same is not publicly known or used in India, or in any part of the United Kingdom of Great Britain and Ireland, to the best of my knowledge and belief, and that to the best of my belief, the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention and in what manner the same is to be performed.

The                      day of

(Signed)





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 ACT No. XVI OF 1859.

*Repealed by Act XXXVII of 1860.*

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 ACT No. XVII OF 1859.

BOMBAY.

*(Received the assent of the Governor General on the 16th July 1859)*

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1. *Repeal of Regulation.*
2. *Collection of Abkaree Revenue.*
3. *Manufacture of spirituous liquor in Bombay.*
4. *Penalty for prohibited manufacture.*
5. *License for making spirituous liquors.*
6. *Penalty for making spirituous liquors without License.*
7. *Grant of License.*
8. *Form of License.*
9. *Fee for License.*
10. *Recovery of arrears.*
11. *Penalty for drawing liquor without License.*
12. *Revocation of License.*
13. *Adjudication and recovery of fines and confiscations.*
14. *Appropriation of fines and confiscations.*
15. *Interpretation.*

An Act to amend the law for the realization of Revenue from  
Abkaree in the Island of Bombay.

WHEREAS it is expedient to raise the taxes chargeable in respect of Licenses for drawing liquors from Cocoanut, Brab or Date trees in the Island of Bombay, and to prohibit the manufacture in the Island of Bombay of any spirituous liquor except from the juice of Cocoanut, Brab, or Date trees ; It is enacted as follows :—

I. From and after the commencement of this Act, Regulation X, 1833, of the Bombay Code (prescribing Rules for the realization of revenue from Abkaree in the Island of Bombay) shall be repealed, except as to any act or offence which shall have been done or committed, or to any money

Regulation re-  
pealed.

which shall have been become due, or to any fine or penalty which shall have been incurred, or to any proceeding which shall have been commenced before this Act shall come into operation.

Calculation of  
Abkaree Revenue.

II. The collection of Revenue from the Abkaree in the Island of Bombay shall be conducted by the Collector of Bombay, or under a farming management subject to the control of the Collector.

Manufacture of  
spirituous liquor  
in Bombay.

III. No spirituous liquor whatever shall be manufactured in any part of the Island of Bombay except from the juice drawn from Cocoanut, Brab, or Date trees, and in the manufacture of spirituous liquor from the juice of Cocoanut, Brab or Date tree, no Moura, Dates, Rice or other materials shall be used.

Penalty for pro-  
hibited manufac-  
ture.

IV. Any person who shall manufacture spirituous liquor contrary to any of the provisions of the preceding Section shall, on conviction before a Police Magistrate or Justice of the Peace, be liable to a penalty not exceeding Five Hundred Rupees for each offence; and all stills and other implements, and all materials whatever used in such illicit manufacture, shall be seized and confiscated.

License for mak-  
ing spirituous  
liquors.

V. No person shall draw liquor, toddy or juice from any Cocoanut, Brab or Date tree, or make or distill any spirituous liquors from the juice of such trees, or use, keep or have in his possession any still or other utensil or apparatus for making or distilling any spirituous liquors in the Island of Bombay, except under the authority of a License from the Collector, to be granted in such form, and for such period, and subject to the payment of such fee or duty, as the Governor of Bombay in Council may from time to time appoint.

Penalty for mak-  
ing spirituous  
liquors without  
a License.

VI. Any person who shall contravene any of the provisions of the preceding Section shall be liable to a penalty not exceeding Five Hundred rupees for each offence, and all stills

and other implements and other materials used in such illicit manufacture shall be seized and confiscated.

VII. The Collector with the sanction of Government may prescribe such rules relating to the granting of licenses, to the number, size, and description of the still, to the situation where the still may be kept or worked, and to the inspection and supervision of the distillery or other place where such still may be kept or worked, as may from time to time be deemed expedient.

**Grant of License.**

VIII. Every License, when granted, shall specify the number and description of trees to be drawn, the place at which the liquor is to be distilled or manufactured, and where the still or other apparatus is to be kept or used, the length of time in respect of each tree included in the License, and any other conditions or terms which the Governor of Bombay in Council may from time to time deem it expedient to require.

**Form of License.**

IX. The fee or duty aforesaid shall be paid at such periods as the Collector may deem expedient, the same being specified in each respective license.

**Fee for License.**

X. The Collector may recover any arrears of fee or duty, due on account of any license granted under this Act, by distress or sale of the goods and chattels of the person from whom the same is due, or by any other process which now is or hereafter may be in force for the recovery of arrears of rent or revenue, due from tenants or farmers of Land within the Island of Bombay.

**Recovery of arrears.**

XI. Any person who shall draw any liquor, toddy or juice from a Cocoanut, Brab or Date tree in the Island of Bombay not included in such License as aforesaid, or contrary to the terms of the License granted in respect of any such tree, shall be liable to a penalty not exceeding One Hundred Rupees for each offence.

**Penalty for drawing liquor without a License.**

**Revocation of License.**

XII. The Collector may cancel any License granted under this Act, if the fee or duty therein specified be not duly paid, or in case of the violation of any other conditions thereof.

**Adjudication and recovery of fines and confiscations.**

XIII. Every fine or penalty leviable under this Act shall be recovered by summary proceedings before any Justice of the Peace or Police Magistrate for the Town and Island of Bombay, upon information exhibited by or by order of the Collector, and all confiscations under this Act shall be adjudicated by such Magistrate or Justice, and sold under his warrant.

**Appropriation of fines and confiscations.**

XIV. All fines and confiscations levied under this Act shall belong to Government, but a moiety of any fine may at the discretion of the Collector be paid to the person, or divided among the persons if more than one, through whose means the offence may have been detected, in such proportions as the Collector may think fit.

**Interpretation.**

XV. The words, "Island of Bombay" in this Act shall include all places within its local limits of the Jurisdiction of Her Majesty's Supreme Court of Judicature at Bombay.

**GENERAL.**

ACT NO. XVIII OF 1859.

(Received the assent of the Governor General on the 25th July 1859)

1. *British subjects how punishable for offences, which are by law made punishable in the Mofussil upon conviction by a Magistrate.*

2. *When such offences are committed within the local limits of the jurisdiction of Her Majesty's Courts.*

3. *Jurisdiction expressly given to Justice of the Peace not to be affected.*

4. *Construction of the word "Magistrate" in certain Acts.*

An Act to amend the law relating to offences declared to be punishable on conviction before a Magistrate.

WHEREAS it is expedient to amend the law relating to offences declared to be punishable on conviction before a Magistrate ; It is enacted as follows :—

I. If any offence, which by any Act of the Governor General in Council heretofore passed is declared to be punishable upon conviction by a Magistrate, shall be committed by a European British subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender, if not otherwise punishable, shall be liable, upon conviction before one of the said Supreme Courts of Judicature, to the punishment to which by such Act the offender is declared to be liable upon conviction before a Magistrate.

British subjects how punishable for offences punishable in the Mofussil upon conviction by a Magistrate.

II. If any offence, which by any Act of the Governor General in Council heretofore passed is declared to be punishable upon conviction by a Magistrate, shall be committed by any person within the local limits of the jurisdiction of any Court of Judicature established by Royal Charter, the offender, if not otherwise punishable, shall be liable upon conviction before such Court to the punishment to which by such Act the offender is declared to be liable upon conviction before a Magistrate.

When such offences are committed within the local limits of the jurisdiction of Supreme Courts.

III. Nothing in this Act shall extend to any case in which jurisdiction is expressly given to a Justice of the Peace to convict the offender.

Jurisdiction expressly given to Justice of the Peace not to be affected.

IV. Whenever, in any Act heretofore passed by the Governor General in Council, the word "Magistrate" is declared to include a Justice of the Peace, such Justice of the Peace shall not by virtue of such Act be deemed to have jurisdiction to punish any offence, unless the same shall be committed within the local limits of the jurisdiction

Construction of the word "Magistrate" in certain Acts.



## ACT No. XXI of 1859.

.EXPIRED.

## ACT No. XXII of 1859.

BOMBAY.

(Received the assent of the Governor General on the 3rd September 1859)

1. *Part of Act I of 1852 repealed.*
2. *Duty on Salt imported by sea.*
3. *Duty on Spirits exported from any Port in India and imported at any Bombay Port.*
4. *Construction of Act.*

An Act to amend Act I of 1852 (for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay).

WHEREAS it is expedient to amend Act I of 1852 (for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay); It is enacted as follows :—

I. Section XX of Act I of 1852, and so much of Schedule A annexed to the said Act as prescribes the rate of Duty to be charged on Salt imported by sea into any port of the Presidency of Bombay, are repealed.

Part of Act I of 1852 repealed.

II. All the provisions now in force of the above-mentioned Act which have reference to the Customs Duty now charged and leviable on Salt imported by sea into any port of the Presidency of Bombay, shall be taken to have reference to the Duty prescribed in the Schedule annexed to this Act.

Duty on Salt imported by sea.

III. Spirits exported from any port within the British territories in India, and imported at any port subordinate to the Government of Bombay, shall be liable on importation to the same rate of Duty as the Governor in Council of Bombay may from time to time impose under Act III of 1852 or any future enactment on Spirits manufactured within the Presidency of Bombay. Provided always that, if the said Spirits be accompanied by a document signed by competent autho-

Duty on Spirits exported from any Port in India and imported at any Bombay Port.



nty, certifying that a Duty, whether of Customs or otherwise, has been paid on the said Spirits within the British territories in India, credit shall be allowed for the sum so paid in settling the Customs at the port of import ; and if such sum equal or exceed the full amount leviable on import, then the Spirits on which such Duty has been paid shall be admitted Duty free.

IV. . This Act shall be construed as part of the said Act I of 1852 ; and any Act subsequent to Act I of 1852 which refers to that Act shall be construed to refer to that Act as hereby altered ; and any Act which refers to Section XX of Act I of 1852 shall, as to all matters arising after the passing of this Act, have the same effect as if it referred to Section III of this Act.

#### SCHEDULE.\*

Rate of Duty to be charged on Salt imported by sea into any port of the Presidency of Bombay from any port or place not subject to the Government of India, or from Aden or from any port or place in the Straits of Malacca.

Salt not covered by a Pass, ..... 1 Rupee per Indian Maund.

#### ACT NO. XXIII OF 1859.†

(Received the assent of the Governor General on the 3rd September 1859.)

1. *Laws repealed. Exception.*
2. *Duties on goods passing by land into or out of certain Foreign Settlements, situate within the limits of the Madras Presidency.*
3. *Duties on goods passing by land into or out of certain Foreign Settlements, situate within the limits of the Bombay Presidency.*

\* Modified by Act VII of 1861.

† See Act X of 1860, to which are annexed the Schedules of Duties authorized by Act XI of 1862 in lieu of the Customs Duties authorized to be charged either by this Act or Act X of 1860. •

An Act to alter the Rates of Duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively.

WHEREAS it is expedient to fix the Duties of Land Customs on goods passing into or from the Presidency of Fort Saint George or the Presidency of Bombay from or into Foreign Settlements on the line of coast at the same rates as the Duties of Sea Customs specified in Schedules A and B annexed to Act VII of 1859 (*to alter the Duties of Customs on goods imported or exported by Sea*); It is enacted as follows :—

I. Section VI of Act VI of 1844 (*for revising the Duties on imports and exports in the Presidency of Fort Saint George*) and Section II of Act XXIX of 1857 (*to make better provision for the collection of Land Customs on certain Foreign frontiers of the Presidency of Bombay*) are hereby repealed, except so far as they respectively relate to Salt or Opium, which shall remain subject to the same rates of Duty, or shall be prohibited without a pass as the case may be, as if this Act had not been passed.

II. Duties of Customs shall be levied on goods passing by land into or out of Foreign Settlements situate on the line of coast within the limits of the Presidency of Fort Saint George, at the rates prescribed in Schedules A and B of Act VII of 1859. And all the provisions of Act VI of 1844 now in force, relating to the rates of Duty mentioned or referred to by Section VI of that Act, are hereby declared to apply to the rates of Duty mentioned in Schedules A and B of the said Act VII of 1859, as if such last mentioned rates had been specially mentioned in that Section.

III. Duties of Customs shall be levied on goods passing by land into or out of Foreign Settlements situate on the line of coast within the limits of the Presidency of Bombay, at the rates prescribed in Schedules A and B of the said Act VII of 1859. And all the provisions of Act XXIX of 1857

now in force, relating to the rates of Duty referred to by Section II of that Act, are hereby declared to apply to the rates of Duty mentioned in Schedules A and B of the said Act VII of 1859, as if such last mentioned rates had been specially mentioned in that Section.

# ACT No. XXIV OF 1859.

MADRAS.

(Received the assent of the Governor General on the 6th September 1859).

1. *Interpretation.* "Magistrate." "Subordinate." "Police." "General Police District." "Property." Number. Gender. "Person." "Month." "Cattle."

2. *Laws repealed.*

3. *Jurisdiction of Officers appointed under Regulation XI, 1816.*

4. *Superintendence vested in Governor in Council.*

5. *Inspector-General of Police, &c.*

6. *Powers of Police, &c.*

7. *Inspector-General to be appointed a Justice of the Peace. To have the powers of a Magistrate, but to exercise such powers under the orders of Government. District Superintendent may be appointed a Magistrate. In what cases he may act in that capacity.*

8. *Constitution of the Force.*

9. *Inspector-General to control the Force and make rules.*

10. *Appointment and dismissal of Police Officers.*

11. *Police Officers to receive certificates of office.*

12. *Police Superannuation Fund. Proviso.*

13. *Additional Police Officers employed at the cost of individuals.*

14. *Appointment of additional Force in the neighbourhood of Railway and other works.*

15. *Payment of money for support of additional Police Force.*

16. *Special Police Officers.*

17. *Powers of special Police Officers.*

18. *Refusal to serve.*

19. *Police Officers not to resign without leave, or two months, notice.*

20. *Unlawful assumption of Police functions, personation of Police, &c.*

21. *Duties of Police Officers.*

22 to 43. *Repealed by Act XVII, 1862.*

44. *Penalties for neglect of duty, &c.*

45. *Penalty for receiving unauthorized fees, &c.*
46. *Penalty for extortion, &c.*
47. *Penalty for obstructing a Police Officer in the execution of his duty.*
48. *Certain duties of Police Officers within the limits of Towns. Obstructions and nuisances in roads.*
49. *Regulation of public processions, &c., and of carriages and persons at places of public resort. Licenses for use of music in streets.*
50. *Jurisdiction. Proviso.*
51. *Liability to prosecution for higher penalties not affected. Proviso.*
52. *Levy of fines.*
53. *Limitation of action. Proviso.*
54. *Plea that act was done under a warrant. Proviso.*
55. *Operation of Act.*

An Act for the better Regulation of the Police within the Territories subject to the Presidency of Fort St. George.

WHEREAS it is expedient to make the Police Force throughout the Madras Presidency a more efficient instrument at the disposal of the Magistrate for the prevention and detection of crime, and to re-organize the Police Force and improve the condition of the Village Police; It is enacted as follows :—

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, (that is to say),

The word “Magistrate” shall include all persons, within their respective jurisdictions, exercising all or any of the powers of a Magistrate.

The word “Subordinate,” as applied to Police functionaries, shall mean District Superintendents and their Assistants.

The word “Police” shall include general and village Police, Cuttoobadies, Kavilgars, and all other persons, by whatever name known, who exercise any Police functions throughout the Madras Presidency.

The expression “General Police District” shall embrace all districts to which the operation of this Act shall be extended.

Interpretation.

“Magistrate.”

“Subordinate.”

“Police.”

“General Police District.”

**"Property."** The word "property" shall include any chattel, money, or valuable security.

**Number.** Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

**Gender.** Words importing the masculine gender shall include females.

**"Person."** The word "person" shall include company or corporation.

**"Month."** The word "month" shall mean calendar month.

**Cattle.** The word "cattle" shall, besides horned cattle, include Elephants, Camels, Horses, Asses, Mules, Sheep, Goats, and Swine.

**Laws repealed.** II. The several Regulations and Acts mentioned in the Schedule hereunto annexed are hereby repealed and amended to the extent and in the manner therein set forth, within the limits of the General Police District; except so far as they repeal the whole or any part of any other Regulation or Act, and except as to any act or offence which shall have been done or committed, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation: Provided also, that nothing in this Section shall be construed to affect any judicial function or jurisdiction, original or appellate, which by any existing law may be exercised by any of the Officers mentioned in the enactments above repealed.

**Jurisdiction of Officers appointed under Regulation XI, 1816.**

III. Nothing contained in this Act shall affect the powers of appointment given to Magistrates by Section XL of Regulation XI, 1816 of the Madras Code, or the jurisdiction or functions of Officers appointed under such powers, save only that no Officer so appointed shall be competent to exercise any of the functions or duties of Executive Police Officers.

**Superintendence vested in Governor**

IV. The superintendence of the Police throughout the General Police District shall vest in and be exercised by the Governor in Council, and, except as authorized by him under the provisions of this Act, no person, Officer, or Court shall be empowered to appoint, supersede, or control any

Police functionary, any Regulation, Act or usage to the contrary notwithstanding.

V. The administration of the Police throughout the General Police District shall be vested in an Officer, to be styled the Inspector-General of Police for the Presidency of Madras, and in such subordinates as to the Governor in Council shall seem fit, who shall from time to time be appointed by the Governor in Council, and may be removed by the same authority, and who shall receive such salary as the Governor General of India in Council shall allow.

Inspector-General of Police, &c.

VI. All powers not inconsistent with the provisions of this Act, which up to the passing of this Act belonged by law to the existing Police authorities, shall be vested in the Police authorities appointed under this Act. Provided always, that no Police functionary so appointed shall possess or exercise any Judicial or Revenue authority.

Powers of Police, &c.

VII. The Inspector-General of Police shall be appointed a Justice of the Peace; he shall also have the full powers of a Magistrate throughout the General Police District, but shall exercise these powers subject to such orders as may from time to time be issued by the Governor in Council. The Governor in Council may vest any District Superintendent of Police with all or any of the powers of a Magistrate, within such limits as he may deem proper; but such Superintendent shall exercise the powers with which he shall be so invested, only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension, and detention of offenders in order to their being brought before a Magistrate, and as far as may be necessary for the performance of the duties assigned to him by this Act.

Inspector-General to be a Justice, and to have the powers of a Magistrate, but to exercise such powers under the orders of Government. District Superintendent may be a Magistrate. In want cases he may act as such.

VIII. The entire Police establishment of the Madras Presidency shall for the purposes of this Act be deemed to be one Police Force, and shall be formally enrolled, and shall consist of such number of Officers and men, and shall be otherwise constituted in such manner, as shall be from time

Constitution of the Force.

to time ordered by the Governor in Council with the sanction of the Governor General of India in Council.

Inspector-General to control Force and make rules.

IX. The Inspector-General may from time to time, subject to the approval of the Governor in Council, frame such orders and regulations as he shall deem expedient, relative to the general government and distribution of the Force, the places of residence, the classification, rank, and particular service of the members thereof; their inspection; the description of arms, accoutrements, and other necessities to be furnished to them; to the collecting and communicating intelligence and information; and all such other orders and regulations relative to the said Police Force as the said Inspector-General shall, from time to time, deem expedient for preventing abuse or neglect, and for rendering such Force efficient in the discharge of all its duties.

Appointment and dismissal of Police Officers.

X. The appointment of all Police Officers shall, under such rules as the Governor in Council shall from time to time sanction, rest with the Inspector-General of Police and the Deputy Superintendents, who may under such rules as aforesaid at any time dismiss, suspend, or fine to any amount not exceeding one month's pay, any Police Officer whom they shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Police Officers to receive certificates.

XI. Every person so appointed shall receive on his enrolment a certificate (A) under the seal of the Inspector-General, by virtue of which he shall be vested with the powers, functions, and privileges of a Police Officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the Police Force, and shall thereupon be immediately surrendered to his superior Officer, or other person empowered to receive it.

Police Superannuation Fund. Proviso.

XII. There shall be deducted from the pay of every Police Officer of a class not entitled to the benefit of the Uncovenanted Service Pension Rules, a sum after such rate as the Governor in Council shall direct, not being a greater

rate than one anna in the Rupee ; which sum so deducted, and also the monies accruing from stoppages from the pay of Police Officers during absence from sickness or other cause, and fines imposed on Police Officers for misconduct, and from fines imposed by Magistrates and others upon drunken persons or for assaults upon Police Officers, and all monies arising from the sale of worn or cast-off clothing, or other articles supplied for the use of the Police, or from any other miscellaneous sources which shall be permitted by the Governor in Council, shall from time to time be invested in such manner and in such securities as the Governor in Council may direct, and the interest and dividends thereof, or so much of the same as shall not be required for the purposes herein mentioned, shall be likewise invested as aforesaid, and accumulate, so as to form a Fund to be called "The Police Superannuation Fund"; and shall be applied from time to time to the payment of superannuation or retiring allowances, or gratuities, under such rules as may be passed by the said Governor in Council : Provided always, that any Police Officer may be dismissed or removed without superannuation allowance ; and that no Police Officer shall be entitled of right to any allowance from this Fund ; or shall retain any right to a refund of any deduction made from his pay while he may have been a Police Officer.

XIII. It shall be lawful for the Inspector-General of Police, or any District Superintendent, if they shall think fit, on the application of any person showing the necessity thereof, to depute any additional number of Police Officers to keep the peace at any place within the General Police District, at the charge of the person making the application, but subject to the orders of the said Inspector-General or District Superintendent and for such time as they shall think fit ; Provided always that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector-General or District Superintendent, to require that the Officers so appointed shall be discontinued : such person shall be



relieved from the charge of such additional Force from the expiration of such notice.

**Appointment of additional Force in the neighbourhood of Railway and other works.**

XIV. Whenever any Railway, Canal, or other Public work shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector-General that the appointment of an additional Police Force in such neighbourhood is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, it shall be lawful for the Inspector-General, with the consent of the Governor in Council, to direct the employment of such additional Force, and to maintain the same so long as such necessity shall continue; and to make orders from time to time upon the Treasurer or other officer having the control or custody of the funds of any Company carrying on such works, for the payment of the extra Force so rendered necessary as aforesaid.

**Payment of money for support of additional Police Force.**

XV. All monies paid in respect of such additional Force as is mentioned in the two last preceding Sections, shall be paid into a fund to be called "The General Police Fund," and shall be applied to the maintenance of the Police Force under such orders as the Governor in Council may pass; and all sums of money payable under those Sections shall be recoverable by suit in any competent Court, or by distress and sale of the goods of the defaulter under the warrant of a Magistrate.

**Requisition for Special Police Officers.**

XVI. When it shall appear that any tumult, riot, or outrage has taken place, or may be reasonably apprehended in any place, and that the ordinary Officers appointed for preserving the peace are not sufficient for its preservation and for the protection of the inhabitants and the security of property in such place, it shall be lawful for any Police Officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the public or village servants or residents of the neighbourhood, as such Police Officer may require, to act as special Police Officers for such time and in such manner as he shall deem

necessary ; and it shall be the duty of such Magistrate at once to comply with such applications.

XVII. Every special Police Officer so appointed shall have the same powers, privileges, and protection, and be liable to all such duties and penalties, and be subordinate to the same authorities as the ordinary Officers of Police.

**Powers of special Police Officers.**

XVIII. If any person, being appointed a special Police Officer as aforesaid, shall without sufficient excuse neglect or refuse to serve as such, or to obey such lawful order or direction as may be given him for the performance of his duties, he shall be liable upon conviction before a Magistrate to a fine not exceeding Fifty Rupees for such neglect, refusal, or disobedience.

**Refusal to serve.**

XIX. No Police Officer shall be at liberty to resign his office, or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the District Superintendent ; or unless he shall have given to his superior Officer two months' notice in writing of his intention to do so. Nor shall any such Police Officer engage in any employment or office whatever, other than his duties under this Act, unless expressly permitted to do so in writing under the seal of the Inspector-General.

**Police Officers not to resign without leave or two months' notice.**

XX. From and after the passing of this Act, every person, not being, or having ceased to be, a duly enrolled Police Officer, who shall unlawfully assume any function or power belonging to the Police ; and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements, and appointments, and other necessities which may have been supplied to him for the execution of his duty ; or who shall have in his possession any distinctive article of the dress or appointment directed to be worn exclusively by the Police Force, without being able to account satisfactorily for his possession thereof ; or who shall put on the dress of any Police Officer, or any dress designed to represent it, or to be taken for it ; or who shall otherwise personate the character or act the part of any Police Officer for any pur-

**Unlawful assumption of Police functions, personation of Police. &c.**

pose whatever ; shall, in addition to any other punishment to which he may be liable for any offence committed under the assumed character, be liable on conviction before a Magistrate to a penalty not exceeding Two Hundred Rupees, or to imprisonment; with or without hard labor, for a period not exceeding six months, or both.

**Duties of Police  
Officers.**

XXI. Every Police Officer shall, for all purposes in this Act contained, be considered to be always on duty, and shall have the powers of a Police Officer in every part of the General Police District. It shall be his duty to use his best endeavours and ability to prevent all crimes, offences, and public nuisances ; to preserve the peace ; to apprehend disorderly and suspicious characters ; to detect and bring offenders to justice ; to collect and communicate intelligence affecting the public peace ; and promptly to obey and execute all orders and warrants lawfully issued to him.

*XXII—XLIII. Repealed by Act XVII, 1862.*

**Penalties for  
of duty,**

XLIV. Every Police Officer who shall be guilty of any violation of duty or wilful breach of any lawful orders and regulations not punishable under Section X of this Act ; or who shall cease to perform the duties of his office without leave, or without having given two months notice as provided by this enactment, or engage without authority in any employment other than his Police duty ; or who shall maliciously and without probable cause prefer any false, vexatious, or frivolous charge or information against any individual ; or who shall knowingly and wilfully and with evil intent exceed his powers ; or shall be guilty of any wilful and culpable neglect of duty in not bringing any person, who shall be in his custody without a warrant, before a Magistrate as hereinbefore provided ; or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable on conviction before a Magistrate to a penalty not exceeding three months' pay, or to imprisonment with or without hard labor not exceeding three months, or both.

XLV. Any Police Officer who shall, on any pretext or under any circumstance, directly or indirectly collect or receive any fee, gratuity, diet-money, allowance, or recompence other than he may be duly authorized by the Inspector-General or other officer acting under his order to collect or receive, shall on conviction before a Magistrate be liable to a penalty not exceeding six months' pay, or to imprisonment with or without hard labor not exceeding six months, or both.

Penalty for receiving unauthorised fees, &c.

XLVI. Any Police Officer who shall directly or indirectly extort, exact, seek, or obtain any bribe or unauthorized reward or consideration, by any illegal threat, or pretence, or for doing or omitting or delaying to do any act which it may be his duty to do or to cause to be done, or for withholding or delaying any information which he is bound to afford or to communicate; or who shall attempt to commit any of the offences aforesaid, or shall be guilty of cowardice, shall be liable upon conviction before a Magistrate to a fine not exceeding twelve months' pay, or to imprisonment with or without hard labor not exceeding twelve months, or both. Provided always, that nothing in the three last preceding Sections shall be deemed to preclude the Magistrate from committing for trial any cases of this nature too serious for his cognizance.

Penalty for extortion, &c.

XLVII. If any person shall assault or resist any Police Officer in the execution of his duty; or shall aid or incite any other person so to do; or shall maliciously and without probable cause prefer any false or frivolous charge against any Police Officer; such person shall, on conviction of such offence before any Magistrate, be liable to a fine not exceeding Fifty Rupees, or to imprisonment with or without hard labor not exceeding three months, or both.

Penalty for obstructing a Police Officer in the execution of his duty.

XLVIII. Any person who in any street, road, thoroughfare, or passage, within the limits of any town, commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, or damage of the residents and passengers, shall, on conviction before a Magistrate, be liable to a fine not exceeding Fifty Rupees, or to imprisonment not exceed-

Certain duties of Police Officers within the limits of Towns. Obstructions and nuisances in roads.

ing eight days ; and it shall be lawful for any Police Officer to take into custody without warrant any person who within his view commits any such offence.

*First.* Any person who shall slaughter any cattle, or clean any carcase in the streets ; any person riding or driving any cattle recklessly and furiously, or training or breaking any horse or other cattle on or near any public road, to the danger of the passers :

*Second.* Any person who wantonly or cruelly abuses or tortures any animal :

*Third.* Any person who shall keep any cattle, or conveyance of any kind, standing in any road or street longer than is required for loading or unloading, or for taking up or setting down passengers, or who shall leave any conveyance in such a manner as to cause inconvenience or danger to the public.

*Fourth.* Any person exposing goods for sale on the road so as to obstruct passengers :

*Fifth.* Any person who throws or lays down any dirt, filth, rubbish or any stones or building materials ; or who constructs any pial, cowshed, stable, or the like within the bounds of any thoroughfare ; or who causes any offensive matter to run from any house, factory, dung heap, or the like into the street :

*Sixth.* Any person found in any thoroughfare drunk and riotous or incapable of taking care of himself :

*Seventh.* Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance by easing himself in or by the side of, or near any public street or thoroughfare ; or by bathing or washing in any tank or reservoir, not being a place set apart for that purpose :

*Eighth.* Any person who neglects to fence in or duly to protect any well, tank, or other dangerous place or structure.

XLIX. The Superintendent and Superior Officers of Police may, as occasion requires, direct the conduct of all



assemblies and processions in the public roads, streets, or thoroughfares, prescribe the routes by which, and the times at which such processions may pass; keep order in the public roads, streets, thoroughfares, ghauts and landing places, and all other places of public resort, and prevent obstructions on the occasion of such assemblies and processions and in the neighbourhood of places of worship during the time of public worship, and in any case when the roads, streets, or thoroughfares, ghauts or landing places, may be thronged, or may be liable to be obstructed; they may also regulate the use of music in the streets, on the occasion of native festivals and ceremonies; and may direct all crowds of twelve or more persons to disperse, when they have reason to apprehend any breach of the peace; and every person opposing or not obeying the orders so issued as aforesaid, or violating the conditions of such license, shall be liable to a fine not exceeding One Hundred Rupees. Provided always, that nothing in this Section contained shall be deemed to interfere with the general control of the Magistrate over such matters.

riages and persons  
at places of public  
resort. Licenses  
for use of music in  
streets.

L. In all cases of convictions under this Act, the Magistrate trying the case shall be restrained within the limits of his ordinary jurisdiction as to the amount of fine or imprisonment he may inflict; Provided always, that such charges against Police Officers above the rank of a Private shall only be adjudicated on by European functionaries, and that Village Watchers alone shall be liable to conviction by Heads of Villages.

Jurisdiction.

Proviso.

LI. Nothing contained in this Act shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Act; or to prevent any person from being liable under any other Law, Regulation, or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Provided always that no person shall be punished twice for the same offence.

Liability to pro-  
secution for higher  
penalties not affect-  
ed.

Proviso.

LII. All fines and penalties imposed, and all sums of money recoverable under the authority of this Act, may, in

Levy of fines.

case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate, in manner provided by Act II of 1839.

Limitation of  
action.

LIII. All actions and prosecutions against any person, which may be lawfully brought for any thing done or intended to be done under the provisions of this Act or under the general Police powers hereby given, shall be commenced within three months after the act complained of shall have been committed, and not otherwise ; and notice in writing of such action and of the cause thereof, shall be given to the defendant, or to the Superintendent or other Superior Officer of the District in which the act was committed, one month at least before the commencement of the action ; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant ; and though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action ; Provided always, that no action shall in any case lie where such Officers shall have been prosecuted criminally for the same act.

Proviso.

Plea that act was  
done under a war-  
rant.

LIV. When any action, prosecution, or proceeding shall be brought against any Police Officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate ; and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by a Magistrate. And the defendant shall thereupon be entitled to a decree in his favor, notwithstanding any defect of jurisdiction in such Magistrate. And no proof of the signature of such Official shall be necessary, unless the Court shall see reason to doubt its being genuine ; Provided always, that any remedy which the party may have against the authority issuing such warrant shall remain entire.

Proviso.

LV This Act shall take effect in any and every such District as the Governor in Council shall appoint by notification published in the Official Gazette.

## SCHEDULE.

### LAWS REPEALED.

The following words in Section XXXVI of Regulation IX, 1816 "The Officer entrusted with the service of the summons in such cases, as well as in all other cases wherein bail may not be required, shall demand only an acknowledgment of the receipt of it, and in the absence of the party, the summons may be served on the principal person in his house or family, if such person be willing to receive the same, and to return an acknowledgment for the party;" and Section XLII.

\* Regulation XI, 1816, Sections III, IV, V, VI, VII, XI, XV, XVI, XVII, XVIII, XXI, XXII, XXIII, XXIV, XXV, XXVI, Clause 2, XXIX, XXXV, XXXVIII, XXXIX, XL, XLI, XLVIII, and LV.

Regulation IV, 1821, Section III

So much of Clause 2 Section II of Regulation IV, 1821, as declares that all subordinate Officers of Police of every description shall be subject to the authority of the Tahseeldars of their respective Districts

So much of Section VII of Regulation VI, 1831, as affects village watchmen or other persons holding village offices in the Police Department

Act VII of 1813, Sections XXXIX and XL

### LAWS AMENDED.

So much of Clause 4 Section XIII of Regulation XI, 1816 as directs the Head of the Village to apprehend any person supposed to have committed a murder.

So much of Clause 1 Section XXVII of Regulation XI, 1816, as directs the Head of the Village to make every exertion to apprehend any person accused or suspected of having committed the offences referred to in the said Clause.

\* So much of this Schedule as repeals Regulation XI, 1816, Sec. XI Clause 1 is repealed by Act XVII, 1862. Schedule



FORM A.

A. B. has been appointed a Member of the Police Force under Act XXIV of 1859, and is vested with the powers, functions, and privileges of a Police Officer.

GENERAL.

ACT NO. XXV. OF 1859.

*(Received the assent of the Governor General on the 14th December 1859.)*

1. *Number of Native Passengers to be carried in unlicensed Vessel.*
2. *Number of Native Passengers to be carried in licensed Vessels. Two exceptions.*
3. *Penalty on Master of unlicensed Vessel for infringement of the above provisions.*
4. *Penalty on Master of licensed Vessel.*
5. *Government to appoint Ports for shipment of Passengers when the number of Passengers to be carried is greater than one to every four tons of burden.*
6. *Grant of licenses to Vessels.*
7. *Certain licensed Passenger Vessels to carry provisions according to appointed scale.*
8. *Penalty for omitting to supply Passengers with prescribed allowance of food and water.*
9. *Supply of provisions on board Passenger Ships plying to and from Ceylon, &c.*
10. *List of Passengers to be signed by Master. Additional Passengers.*
11. *Penalty for bringing Native Passengers into any Port on the Eastern Coast of the Bay of Bengal from any Foreign European Settlement in excess of authorized proportion.*
12. *Penalty for impeding entry or inspection.*
13. *Penalty on landing Passenger at a place other than that at which he has contracted to land.*
14. *Passenger's right of action preserved.*
15. *Adjudication of offences and recovery of penalties. Sum ordered to be paid leviable by distress on Ship.*
16. *Jurisdiction.*
17. *Application of penalties.*
18. *Interpretation. "Magistrate." "Local Government."*
19. *Commencement of Act.*

An Act to prevent the over-crowding of Vessels carrying Native Passengers in the Bay of Bengal.

WHEREAS it is necessary to prevent the over-crowding of Vessels carrying Native Passengers in the Bay of Bengal ; It is enacted as follows:—

I. No vessel shall carry Native Passengers from any port or place under the Presidency of Fort St. George or from Chittagong or from any port in the Province of Orissa, to any port or place on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca or in Ceylon ; or from any port or place on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca, to any port or place under the Presidency of Fort St. George, or to Chittagong, or to any port in the Province of Orissa, in a proportion greater than one Passenger to every four tons of the burden of such vessel, without a license.

Number of Native Passengers to be carried in unlicensed Vessels.

II. No vessel shall be licensed to carry Passengers on any such voyage as aforesaid; in a proportion greater than one Passenger to every ton of burden, nor unless the Vessel has space on a deck or platform under hatches reserved for the accommodation of the Passengers in the proportion of six superficial feet for every Passenger, with not less than five feet clear between the upper deck and the lower deck or platform ; except a vessel proceeding in ballast from any part of the Coast of the Gulf of Manan or Palks' Strait to any port or place in Ceylon, which may be licensed to carry a number of Passengers not exceeding the proportion of two and a half to every ton of her burden, provided that the whole of the space, usually allotted for cargo and not occupied by ballast, be kept for the accommodation of the Passengers, and for storing the provisions and water for their use, and that the space left clear for the accommodation of the Passengers on the deck or decks of the Vessel be not less than four superficial feet for each Passenger, and except a vessel carrying Native Passengers between Chittagong and any Port or place on the Coast of Aracan, which may be licensed to carry a

Number of Native Passengers to be carried in licensed Vessels.

First exception.

Second exception.

number of Passengers not exceeding the proportion of two and a half to every ton of her burden, subject to such regulations as the Government of Bengal may prescribe.

Penalty on Master of unlicensed Vessel.

III. The Master or Tindal of any vessel which shall carry Native Passengers on any such voyage as aforesaid, without a license, in a proportion exceeding that laid down in Section I, shall be liable to a fine not exceeding Twenty Rupees for each Passenger in excess of such proportion.

Penalty on Master of licensed Vessel.

IV. The Master or Tindal of any licensed vessel which shall carry on any such voyage a greater number of Passengers than is specified in the license, or in which the accommodation therein required shall not be afforded, shall be liable to a fine not exceeding Twenty Rupees for each Passenger in excess of such number, or for each Passenger who is not provided with accommodation agreeably to the license.

Government to appoint Ports for shipment of Passengers when the number of Passengers to be carried is greater than one to every four tons of burden.

V. Passengers in a greater number than one Passenger to every four tons of the burden of any vessel, shall not be shipped from the territories under the Government of Fort St. George or from the Province of Orissa, for Ceylon or the Eastern Coast of the Bay of Bengal or the Straits of Malacca; or from the Eastern Coast of the Bay of Bengal or the Straits of Malacca, for the said Territories or Province or for Chittagong, except from such ports as shall be from time to time appointed by the local Government by an Order published in the Government Gazette and in the Straits Settlement in such manner as the Governor shall notify; and the Master or Tindal of any vessel who shall take on board Passengers for such voyage from any other port or place in a greater proportion to the burden of the vessel than is above-mentioned, shall be liable to a fine not exceeding Twenty Rupees for each Passenger embarked.

Grant of licenses to Vessels.

VI. It shall be at the discretion of the Collectors of Sea Customs for the ports appointed for shipping Native Passengers, or such other persons as the local Government may from time to time appoint for the purpose, to grant licenses to vessels under this Act. Provided, that such licenses shall

not be granted, except for vessels within the exceptions in Section II, till the vessels have been surveyed according to such directions as shall be given from time to time by the local Government. The license shall describe the vessel, her tonnage, and rig; the number of her boats, anchors, and cables; and what instruments for the purpose of navigation she is supplied with; also the name of the owner and of the Master or Tindal and the number and composition of the crew; and shall specify the number of Passengers she may carry and the space to be assigned for their accommodation.

VII. The Master or Tindal of any vessel licensed to carry Passengers from any port in the territories under the Government of Fort St. George or from Chittagong or from any port in the province of Orissa, to any port or place on the Eastern Coast of the Bay of Bengal or the Straits of Malacca; or from any port on the Eastern Coast of the Bay of Bengal or the Straits of Malacca, to any port or place in the territories under the Government of Fort St. George, or to Chittagong, or to any port in the Province of Orissa; which shall proceed on such voyage not being furnished with provisions and water according to such scale as shall be laid down from time to time by an order of the local Government published in the Government Gazette and in the Straits Settlement in such manner as the Governor shall notify, shall be liable to a fine not exceeding Twenty Rupees for each Passenger in excess of the number fully supplied with provisions and water according to such scale.

**Certain licensed Passenger Vessels to carry provisions according to appointed scale.**

VIII. The Master or Tindal of any vessel licensed to carry Passengers as aforesaid, who shall wilfully and without satisfactory excuse omit to supply to every Passenger the prescribed allowance of food and water, shall be liable for such omission to a fine which may extend to Twenty Rupees for every Passenger who has suffered privation thereby.

**Penalty for omitting to supply Passengers with prescribed allowance of food and water.**

IX. The Master or Tindal of any vessel licensed to carry Passengers from any port under the Government of Fort St. George to Ceylon, or between Chittagong and any

**Supply of provisions on board Passenger Ships plying to and from Ceylon, &c.**

port or place on the Coast of Arracan, who shall proceed on any such voyage without having laid in a supply of water and provisions for the Passengers according to a scale to be fixed by the Collector of Sea Customs for such port, or such other person as the local Government may from time to time appoint for the purpose, which shall be hung up at the Custom House of the Port, shall be liable to a fine not exceeding One Hundred Rupees.

List of Passengers to be signed by Master. Additional Passengers.

X. The Master or Tindal of any vessel licensed to carry Passengers as hereinbefore provided shall sign and deliver in duplicate to the principal Officer of Customs at the place of embarkation, or such other person as the local Government may from time to time appoint for the purpose, a list, according to the form annexed to this Act, of all Passengers to be conveyed in such vessel; and such Officer, after satisfying himself of the correctness of the same, and that the number of Passengers authorized is not exceeded, shall counter-sign and return one such list to the Master or Tindal, to be produced to the proper Officer at the port to which the vessel is bound; and should any additional Passengers engage to proceed by such Vessel after such list has been so counter-signed, the Master or Tindal may insert their names in the original list obtaining the signature of the controlling Officer as before. The Officer in charge of the Customs may withhold the Port Clearance till this rule is complied with.

Penalty for bringing Native Passengers into any Port on the Eastern Coast of the Bay of Bengal from any Foreign European Settlement in excess of authorized proportion.

XI. If any vessel, bringing Native Passengers into any port or place whatsoever on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca, from any Foreign European Settlement situate on the line of coast within the limits of the Presidency of Fort Saint George, shall have on board a greater number of Passengers than in the proportion prescribed in Section I of this Act, the Master or Tindal of such vessel shall be liable to a penalty of Twenty Rupees for each Passenger in excess of such proportion, unless the vessel shall have been licensed under Section VI. of this Act, and shall have complied with the stipulations as regards space, water, and provisions laid down in Section II.

XII. The principal Officer in charge of the Customs at the port of embarkation or of destination, or any person authorized by him, shall be at liberty at all times to enter and inspect any Passenger Vessel, and the fittings, provisions, and stores therein; and whoever impedes such entry or inspection, or refuses to allow of the same, shall be liable to a fine not exceeding Fifty Rupees.

Penalty for impeding entry or inspection.

XIII. If any native Passenger in any Ship shall be landed at any port or place other than the port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall for each offence be liable to a penalty not exceeding Two Hundred Rupees.

Penalty on landing Passenger at a place other than that at which he has contracted to land.

XIV. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native Passenger, or to any other person, in respect of the breach or non-performance of any contract made with the Master or Owner of the Ship or his Agent.

Passenger's right of action preserved.

XV. All offences against this Act shall be punishable in a summary manner by a Magistrate. If the person directed to pay any penalty is the Master or Tindal of a ship, and the same is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.

Adjudication of offences and recovery of penalties. Sum ordered to be paid leviable by distress on Ship.

XVI. For the purpose of the adjudication of penalties under this Act, any offence shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Jurisdiction.

XVII. Any Magistrate imposing any penalties under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings.

Application of penalties.

Interpretation.  
 "Magistrate,"  
 "Local Government."

XVIII. The word "Magistrate" in this Act shall include a Magistrate of Police appointed under Act XIII of 1856, a Joint Magistrate, and any person lawfully exercising the powers of a Magistrate, and a Justice of the Peace.

The words "Local Government" shall mean the person or persons for the time being immediately administering the Executive Government of that portion of the said territories where the port or place in question is situate.

Commencement  
 of Act.

XIX. This Act shall commence and take effect from the expiration of Act I of 1857.

### SCHEDULE.

FORM

| 1               | 2               | 3                  | 4                    | 5                                | 6                                                      | 7                 |
|-----------------|-----------------|--------------------|----------------------|----------------------------------|--------------------------------------------------------|-------------------|
| Name of Vessel. | Name of Master. | Tons per register. | Port of embarkation. | Numbers and names of Passengers. | Port at which Passengers have contracted to be landed. | Date of departure |
|                 |                 |                    |                      |                                  |                                                        |                   |

—(Signed)—

*Master.*

(Countersigned)—

*Principal Officer of Customs.*

*Note.*—In the case of Vessels carrying Passengers to Ceylon, or between Chittagong and any port or place on the Coast of Aracan, it will be sufficient to insert the number, and not the names, of Passengers in Column 5.

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 ACT No. XXVI OF 1859.

 EXPIRED.
 

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## ACT No. XXVII OF 1859.

 EXPIRED.
 

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## ACT No. XXVIII OF 1859.

GENERAL.

*(Received the assent of the Governor General on the 26th December 1859.)*

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1. *Act XXXIII of 1857 to continue in force for two years from 5th December 1859.*

An Act to revive and continue in force for a further period Act XXXIII of 1857 (to make further provision relating to Foreigners.)

WHEREAS by Act XXXIII of 1857 ("An Act to make further provision relating to Foreigners" which received the assent of the Governor General on the 5th December 1857), it was enacted that the said Act should continue in force for two years; and whereas it is expedient to revive and continue the said Act for a further period; It is enacted as follows:—

I. The said Act XXXIII of 1857 shall continue in force for the period of two years from the 5th day of December 1859,\* and shall be deemed and taken to have had effect as if this Act had actually passed and received the assent of the Governor General before the expiration of the said Act XXXIII of 1857.

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\* Continued in force for 2 years more by Act I, 1862.

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